**SIXTY-FIRST LEGISLATURE - REGULAR SESSION**

# SEVENTY EIGHTH DAY

House Chamber, Olympia, Monday, March 30, 2009

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Theodosia Fehsenfeld and Marta Nelson. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Lynn Ford, Woodland Church of the Nazarene.

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

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

The Speaker (Representative Moeller presiding) called upon Representative Morris to preside.

## SECOND READING

**SUBSTITUTE SENATE BILL NO. 5012, by Senate Committee on Judiciary (originally sponsored by Senators Kilmer, Swecker, Haugen, King, Sheldon, Marr, Kauffman, McAuliffe, Parlette and Roach)**

**Directing the Washington state patrol to develop a plan to assist in the recovery of missing persons.**

The bill was read the second time.

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

Representatives Hurst and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5012.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5012 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5012, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5030, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Kilmer, Hobbs, Swecker, Shin, Berkey, Eide, Hatfield, McAuliffe and Roach)**

**Concerning militia records, property, command, and administration.**

The bill was read the second time.

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

Representatives Hurst and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5030.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5030 and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko,

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

Voting nay: Representative DeBolt.

SUBSTITUTE SENATE BILL NO. 5030, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5035, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Hobbs, Swecker, Marr, Roach, Kastama, Kauffman, Kilmer, Hatfield, McAuliffe and Haugen)**

**Improving veterans' access to services.**

The bill was read the second time.

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

Representatives Morrell and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5035.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5035 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5035, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5043, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Kilmer, Kauffman, Shin, Rockefeller, Kastama, Kohl-Welles, Jarrett, Tom and McAuliffe)**

**Convening a work group to develop a single, coordinated student access portal for college information.**

The bill was read the second time.

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

Representatives Wallace and Anderson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5043.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5043 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5043, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5055, by Senate Committee on Environment, Water & Energy (originally sponsored by Senators Brown, Fraser, Ranker and Kline)**

**Protecting the interests of customers of public service companies in proceedings before the Washington utilities and transportation commission.**

The bill was read the second time.

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

Representatives McCoy and Crouse spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5055.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5055 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby,

Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5055, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5131, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Delvin, Hargrove, Brandland and Regala)**

**Concerning crisis referral services for criminal justice and correctional personnel.**

The bill was read the second time.

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

Representatives Hurst and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5131.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5131 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5131, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5135, by Senators Kline, Tom, McDermott and Kohl-Welles**

**Adding five district court judges in King county. (REVISED FOR ENGROSSED: Adding five district court judges in King county and reducing the number of judges in Spokane county. )**

The bill was read the second time.

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

Representatives Goodman and Rodne spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5135.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5135 and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Anderson.

ENGROSSED SENATE BILL NO. 5135, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5156, by Senators Brandland, McCaslin and Keiser**

**Addressing certification actions of Washington peace officers.**

The bill was read the second time.

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

Representatives Hurst and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5156.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5156 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh,

Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SENATE BILL NO. 5156, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5173, by Senators Shin, Fairley, Kastama, Sheldon, McAuliffe, Brown, Pridemore, Delvin, Hobbs, McDermott, Jarrett, Kilmer, Jacobsen and Kohl-Welles**

**Authorizing the regional universities to confer honorary doctorate degrees.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Higher Education was adopted. (For committee amendment, see Journal, Day 68, March 20, 2009.)

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

Representatives Wallace and Anderson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5173, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5173, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Rolfes.

SENATE BILL NO. 5173, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5184, by Senators Brandland, Hobbs, McAuliffe, Regala, Stevens, Pflug, Hewitt, King, Swecker and Roach**

**Evaluating the need for a digital forensic crime lab.**

The bill was read the second time.

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

Representatives Hurst and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5184.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5184 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SENATE BILL NO. 5184, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5190, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala and Shin)**

**Making technical corrections to community custody provisions.**

The bill was read the second time.

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

Representatives Dickerson, Dammeier and Goodman spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5190.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5190 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5190, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5228, by Senate Committee on Transportation (originally sponsored by Senators Haugen and Morton)**

**Regarding day labor construction projects and programs. Revised for 1st Substitute: Regarding construction projects by county forces.**

The bill was read the second time.

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

Representatives Clibborn and Roach spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5228.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5228 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5228, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5238, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Keiser, Roach, Swecker, Fraser, McCaslin, Kohl-Welles, Honeyford, Pridemore, McDermott, Fairley, Benton and Shin)**

**Authorizing the department of retirement systems to assist with mailing information to certain members of the state retirement systems.**

The bill was read the second time.

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

Representatives Green and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5238.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5238 and the bill passed the House by the following vote: Yeas, 93; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives DeBolt, Ericksen, Kristiansen and Shea.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5238, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5261, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Stevens, Hargrove and Shin)**

**Creating an electronic statewide unified sex offender registry program. Revised for 1st Substitute: Creating an electronic statewide unified sex offender notification and registration program.**

The bill was read the second time.

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

Representatives Hurst and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5261.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5261 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5261, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5290, by Senate Committee on Environment, Water & Energy (originally sponsored by Senators Franklin, Brown, Fraser, Kauffman, McAuliffe, Shin, Murray, Eide, Keiser, Berkey and Regala)**

**Concerning requests made by a party relating to gas or electrical company discounts for low-income senior customers and low-income customers.**

The bill was read the second time.

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

Representatives McCoy and Haler spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5290.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5290 and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SUBSTITUTE SENATE BILL NO. 5290, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5297, by Senators Kline and Delvin**

**Concerning the procedure for filing a declaration of completion of probate.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Judiciary was adopted. (For committee amendment, see Journal, Day 75, March 27, 2009.)

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

Representatives Pedersen and Rodne spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5297, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5297, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SENATE BILL NO. 5297, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5359, by Senators Oemig, Pridemore, Kline and McDermott**

**Preventing rejection of ballots that have voter identifying marks.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on State Government & Tribal Affairs was adopted. (For committee amendment, see Journal, Day 75, March 27, 2009.)

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

Representatives Hunt and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5359, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5359, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

SENATE BILL NO. 5359, as amended by the House, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Morris presiding) called upon Representative Moeller to preside.

**SECOND READING**

**HOUSE BILL NO. 2029, by Representatives Ericks, Morris, McCoy, Ormsby, Hudgins, Hunt, Takko, Springer, Van De Wege, Conway, Eddy, Hasegawa, Finn, Dunshee, Haigh, Kenney, Kessler, Morrell and Goodman**

**Concerning enhanced 911 emergency communications service.**

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 2029 was substituted for House Bill No. 2029 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2029 was read the second time.

With the consent of the House, amendment (409) was withdrawn.

Representative Carlyle moved the adoption of amendment (436):

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 82.14B.010 and 1991 c 54 s 9 are each amended to read as follows:

The legislature finds that the state and counties should be provided with an additional revenue source to fund enhanced 911 emergency communication systems throughout the state on a multicounty((,)) or countywide((, or district-wide)) basis. The legislature further finds that the most efficient and appropriate method of deriving additional revenue for this purpose is to impose an excise tax on the use of switched access lines, radio access lines, and interconnected voice over internet protocol service lines.

**Sec.** 2. RCW 82.14B.020 and 2007 c 54 s 16 and 2007 c 6 s 1009 are each reenacted and amended to read as follows:

As used in this chapter:

(1) (("Emergency services communication system" means a multicounty, countywide, or districtwide radio or landline communications network, including an enhanced 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(2))) "Enhanced 911 ((telephone)) communications system" means a public telephone system consisting of a network, database, and on- premises equipment that is accessed by dialing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 calls to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, address, and telephone number of incoming 911 calls at the appropriate public safety answering point.

(((3))) (2) "Interconnected voice over internet protocol service" has the same meaning as provided by the federal communications commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date determined by the department.

(3) "Interconnected voice over internet protocol service line" means an interconnected voice over internet protocol service that offers an active telephone number or successor dialing protocol assigned by a voice over internet protocol provider to a voice over internet protocol service customer that has inbound and outbound calling capability, which can directly access a public safety answering point when such a voice over internet protocol service customer has a place of primary use in the state.

(4) "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office.

(((4))) (5) "Local exchange company" has the meaning ascribed to it in RCW 80.04.010.

(((5))) (6) "Radio access line" means the telephone number assigned to or used by a subscriber for two-way local wireless voice

service available to the public for hire from a radio communications service company. Radio access lines include, but are not limited to, radio- telephone communications lines used in cellular telephone service, personal communications services, and network radio access lines, or their functional and competitive equivalent. Radio access lines do not include lines that provide access to one-way signaling service, such as paging service, or to communications channels suitable only for data transmission, or to nonlocal radio access line service, such as wireless roaming service, or to a private telecommunications system.

(((6))) (7) "Radio communications service company" has the meaning ascribed to it in RCW 80.04.010, except that it does not include radio paging providers. It does include those persons or entities that provide commercial mobile radio services, as defined by Title 47 U.S.C. **Sec.** 332(d)(1), and both facilities-based and nonfacilities-based resellers.

(((7))) (8) "Private telecommunications system" has the meaning ascribed to it in RCW 80.04.010.

(((8))) (9) "Subscriber" means the retail purchaser of telephone service as telephone service is defined in RCW 82.16.010, or the retail purchaser of interconnected voice over internet protocol service.

(((9))) (10) "Place of primary use" ((has the meaning ascribed to it in RCW 82.04.065)) means the street address representative of where the subscriber's use of the radio access line or interconnected voice over internet protocol service line occurs, which must be:

(a) The residential street address or the primary business street address of the subscriber; and

(b) In the case of radio access lines, within the licensed service area of the home service provider.

**Sec. 3**. RCW 82.14B.030 and 2007 c 54 s 17 and 2007 c 6 s 1024 are each reenacted and amended to read as follows:

(1) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding ((fifty)) seventy cents per month for each switched access line. The amount of tax shall be uniform for each switched access line. Each county shall provide notice of such tax to all local exchange companies serving in the county at least sixty days in advance of the date on which the first payment is due. The tax imposed under this subsection shall be remitted to the department of revenue by local exchange companies on a tax return provided by the department. The tax shall be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act.

(2) The legislative authority of a county may also impose a county enhanced 911 excise tax on the use of radio access lines whose place of primary use is located within the county in an amount not exceeding ((fifty)) seventy cents per month for each radio access line. The amount of tax shall be uniform for each radio access line. The county shall provide notice of such tax to all radio communications service companies serving in the county at least sixty days in advance of the date on which the first payment is due. Any county imposing this tax shall include in its ordinance a refund mechanism whereby the amount of any tax ordered to be refunded by the judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the subscribers who paid the tax. The ordinance shall further provide that to the extent the subscribers who paid the tax cannot be identified or located, the tax paid by those subscribers shall be returned to the county. The tax imposed under this section shall be remitted to the department of revenue by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. The tax shall be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act.

(3) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of interconnected voice over internet protocol service lines in an amount not exceeding seventy cents per month for each interconnected voice over internet protocol service line. The amount of tax shall be uniform for each line and shall be levied on no more than the number of voice over internet protocol service lines on an account that are capable of simultaneous unrestricted outward calling to the public switched telephone network. The interconnected voice over internet protocol service company shall use the place of primary use of the subscriber to determine which county's enhanced 911 excise tax applies to the service provided by the subscriber. Each county shall provide notice of such tax to all voice over internet protocol service companies serving in the county at least sixty days in advance of the date on which the first payment is due. The tax imposed under this section shall be remitted to the department of revenue by interconnected voice over internet protocol service companies on a tax return provided by the department. The tax shall be deposited in the county enhanced 911 excise tax account as provided in section 4 of this act. To the extent that a local exchange carrier and an interconnected voice over internet protocol service company jointly provide a single service line, only one service company will be responsible for remitting county enhanced 911 excise taxes, and nothing in this section shall preclude service companies who jointly provide service lines from agreeing by contract which of them shall remit the taxes collected.

(4) Counties imposing a county enhanced 911 excise tax must provide an annual update to the enhanced 911 coordinator detailing the proportion of their county enhanced 911 excise tax that is being spent on:

(a) Efforts to modernize their existing 911 system; and

(b) Basic and enhanced 911 operational costs.

(5) A state enhanced 911 excise tax is imposed on ((all)) the use of switched access lines in the state. The amount of tax shall not exceed twenty-five cents per month for each switched access line. The tax shall be uniform for each switched access line. The tax imposed under this subsection shall be remitted to the department of revenue by local exchange companies on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

(((4))) (6) A state enhanced 911 excise tax is imposed on ((all)) the use of radio access lines whose place of primary use is located within the state in an amount of twenty-five cents per month for each radio access line. The tax shall be uniform for each radio access line. The tax imposed under this section shall be remitted to the department of revenue by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. The tax imposed under this section is not subject to the state sales and use tax or any local tax.

(((5))) (7) A state enhanced 911 excise tax is imposed on the use of interconnected voice over internet protocol service lines in the state. The amount of tax may not exceed twenty-five cents per month for each interconnected voice over internet protocol service line whose place of primary use is located in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that are capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection must be remitted to the department of revenue by

interconnected voice over internet protocol service companies on a tax return provided by the department. Tax proceeds must be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. To the extent that a local exchange carrier and an interconnected voice over internet protocol service company jointly provide a single service line, only one service company will be responsible for remitting state enhanced 911 excise taxes, and nothing in this section precludes service companies that jointly provide service lines from agreeing by contract which of them will remit the taxes collected.

(8) By August 31st of each year the state enhanced 911 coordinator shall recommend the level for the next year of the state enhanced 911 excise tax imposed by subsection (((3))) (5) of this section, based on a systematic cost and revenue analysis, to the utilities and transportation commission. The commission shall by the following October 31st determine the level of the state enhanced 911 excise tax for the following year.

**NEW SECTION. Sec.** 4. A new section is added to chapter 82.14B RCW to read as follows:

(1) Counties imposing an enhanced 911 excise tax under RCW 82.14B.030 must contract with the department for the administration and collection of the tax prior to the effective date of a resolution or ordinance imposing the tax. The department may deduct a percentage amount, as provided by contract, of no more than two percent of the enhanced 911 excise taxes collected to cover administration and collection expenses incurred by the department. If a county imposes an enhanced 911 excise tax with an effective date of January 1, 2010, the county must contract with the department for the administration and collection of the tax by November 1, 2009.

(2) The remainder of any portion of the county enhanced 911 excise tax under RCW 82.14B.030 that is collected by the department must be deposited in the county enhanced 911 excise tax account hereby created in the custody of the state treasurer. Expenditures from the account may be used only for distribution to counties imposing an enhanced 911 excise tax. Only the state treasurer or his or her designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, and an appropriation is not required for expenditures.

**NEW SECTION. Sec.** 5. A new section is added to chapter 82.14B RCW to read as follows:

(1) All moneys that accrue in the county enhanced 911 excise tax account created in section 4 of this act must be distributed monthly by the state treasurer to the counties in the amount of the taxes collected on behalf of each county, minus the administration and collection fee retained by the department as provided in section 4 of this act.

(2) If a county imposes by resolution or ordinance an enhanced 911 excise tax that is in excess of the maximum allowable county enhanced 911 excise tax provided in RCW 82.14B.030, the ordinance or resolution may not be considered void in its entirety, but only with respect to that portion of the enhanced 911 excise tax that is in excess of the maximum allowable tax.

**Sec.** 6. RCW 82.14B.040 and 2002 c 341 s 9 are each amended to read as follows:

The state enhanced 911 excise tax and the county enhanced 911 excise tax on the use of switched access lines shall be collected from the subscriber by the local exchange company providing the switched access line. The state enhanced 911 excise tax and the county 911 excise tax on the use of radio access lines shall be collected from the subscriber by the radio communications service company providing the radio access line to the subscriber. The state and county enhanced 911 excise taxes on interconnected voice over internet protocol service lines shall be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber. The amount of the tax shall be stated separately on the billing statement which is sent to the subscriber.

**Sec.** 7. RCW 82.14B.042 and 2002 c 341 s 10 are each amended to read as follows:

(1) The state and county enhanced 911 excise taxes imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line ((or)), the radio communications service company providing the radio access line, or the interconnected voice over internet protocol service company providing interconnected voice over internet protocol service, and each local exchange company ((and)), each radio communications service company, and each interconnected voice over internet protocol service company shall collect from the subscriber the full amount of the taxes payable. The state and county enhanced 911 excise taxes required by this chapter to be collected by ((the local exchange company or the radio communications service)) a company are deemed to be held in trust by the ((local exchange company or the radio communications service)) company until paid to the department. Any local exchange company ((or)), radio communications service company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company ((or)), radio communications service, or interconnected voice over internet protocol service company fails to collect the state or county enhanced 911 excise tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the ((local exchange company or the radio communications service)) company is personally liable to the state for the amount of the tax, unless the ((local exchange company or the radio communications service)) company has taken from the buyer in good faith a properly executed resale certificate under RCW 82.14B.200.

(3) The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the ((local exchange company or the radio communications service)) company. Any ((local exchange company or radio communications service)) company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The state and county enhanced 911 excise taxes required by this chapter to be collected by the local exchange company ((or)), the radio communications service company, or the interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company ((or)), the radio communications service company, or the interconnected voice over internet protocol service company the state or county enhanced 911 excise taxes imposed by this chapter and the ((local exchange company or the radio communications service)) company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the ((local exchange company or the radio

communications service)) company, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under RCW 82.14B.061.

**Sec.** 8. RCW 82.14B.050 and 1981 c 160 s 5 are each amended to read as follows:

The proceeds of any tax collected under this chapter shall be used by the county only for the ((emergency services)) enhanced 911 communications system.

**Sec.** 9. RCW 82.14B.060 and 1998 c 304 s 5 are each amended to read as follows:

A county legislative authority imposing a tax under this chapter shall establish by ordinance all necessary and appropriate procedures for the ((administration and collection of the tax, which ordinance shall provide for reimbursement to the telephone companies for actual costs of administration and collection of the tax imposed. The ordinance shall also provide that the due date for remittance of the tax collected shall be on or before the last day of the month following the month in which the tax liability accrues)) acceptance of the county enhanced 911 excise taxes by the department.

**Sec.** 10. RCW 82.14B.061 and 2002 c 341 s 11 are each amended to read as follows:

(1) The department of revenue shall administer and shall adopt such rules as may be necessary to enforce and administer the state and county enhanced 911 excise taxes imposed by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the state and county enhanced 911 excise taxes.

(2) The state and county enhanced 911 excise taxes imposed by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are reported under RCW 82.32.045, the taxpayer shall remit tax on an annual basis in accordance with RCW 82.32.045.

(3) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) The state enhanced 911 excise taxes imposed by this chapter are in addition to any taxes imposed upon the same persons under chapters 82.08 and 82.12 RCW.

**Sec.** 11. RCW 82.14B.150 and 2004 c 153 s 309 are each amended to read as follows:

(1) A local exchange company ((or)), radio communications service company, or interconnected voice over internet protocol service company shall file tax returns on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the company. A ((local exchange company or radio communications service)) company filing returns on a cash receipts basis is not required to pay tax on debt subject to credit or refund under subsection (2) of this section.

(2) A local exchange company ((or)), radio communications service company, or interconnected voice over internet protocol service company is entitled to a credit or refund for state and county enhanced 911 excise taxes previously paid on bad debts, as that term is used in Title 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

**Sec.** 12. RCW 82.14B.160 and 1998 c 304 s 8 are each amended to read as follows:

The taxes imposed or authorized by this chapter do not apply to any activity that the state or county is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

**Sec.** 13. RCW 82.14B.200 and 2002 c 341 s 12 are each amended to read as follows:

(1) Unless a local exchange company ((or a)), radio communications service company, or interconnected voice over internet protocol service company has taken from the buyer a resale certificate or equivalent document under RCW 82.04.470, the burden of proving that a sale of the use of a switched access line ((or)), radio access line, or interconnected voice over internet protocol service line was not a sale to a subscriber is upon the person who made the sale.

(2) If a local exchange company ((or a)), radio communications service company, or interconnected voice over internet protocol service company does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the local exchange company or the radio communications service company remains liable for the tax as provided in RCW 82.14B.042, unless the local exchange company ((or)), the radio communications service company, or the interconnected voice over internet protocol service company can demonstrate facts and circumstances according to rules adopted by the department of revenue that show the sale was properly made without payment of the state or county enhanced 911 excise tax.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on state or county enhanced 911 excise taxes due but not paid as a result of the improper use of a resale certificate. This subsection does not prohibit or restrict the application of other penalties authorized by law.

**Sec.** 14. RCW 38.52.510 and 1991 c 54 s 3 are each amended to read as follows:

By December 31, 1998, each county, singly or in combination with adjacent counties, shall implement ((district-wide,)) countywide((,)) or multicountywide enhanced 911 emergency communications systems so that enhanced 911 is available throughout the state. The county shall provide funding for the enhanced 911 communication system in the county ((or district)) in an amount equal to the amount the maximum tax under RCW 82.14B.030(1) would generate in the county ((or district)) or the amount necessary to provide full funding of the system in the county ((or district)), whichever is less. The state enhanced 911 coordination office established by RCW 38.52.520 shall assist and facilitate enhanced 911 implementation throughout the state.

**Sec.** 15. RCW 38.52.520 and 1991 c 54 s 4 are each amended to read as follows:

A state enhanced 911 coordination office, headed by the state enhanced 911 coordinator, is established in the emergency management division of the department. Duties of the office shall include:

(1) Coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state;

(2) Seeking advice and assistance from, and providing staff support for, the enhanced 911 advisory committee; and

(3) ((Recommending to the utilities and transportation commission by August 31st of each year the level of the state enhanced 911 excise tax for the following year.)) Considering base needs of individual counties for specific assistance, specify rules defining the purposes for which available state enhanced 911 funding may be expended, with the advice and assistance of the enhanced 911 advisory committee; and

(4) Providing an annual update to the enhanced 911 advisory committee on how much money each county has spent on:

(a) Efforts to modernize their existing 911 system; and

(b) Basic and enhanced 911 operational costs.

**Sec.** 16. RCW 38.52.532 and 2006 c 210 s 2 are each amended to read as follows:

On an annual basis, the enhanced 911 advisory committee shall provide an update on the status of enhanced 911 service in the state to the appropriate committees in the legislature. The update must include progress by counties towards creating greater efficiencies in enhanced 911 operations including, but not limited to, regionalization of facilities, centralization of equipment, and statewide purchasing.

**Sec.** 17. RCW 38.52.540 and 2002 c 371 s 905 and 2002 c 341 s 4 are each reenacted and amended to read as follows:

(1) The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise taxes imposed by RCW 82.14B.030 ((shall)) must be deposited into the account. Moneys in the account ((shall)) must be used only to support the statewide coordination and management of the enhanced 911 communications system, for the implementation of wireless enhanced 911 statewide, for the modernization of enhanced 911 communications systems statewide, and to help supplement, within available funds, the operational costs of the system, including adequate funding of counties to enable implementation of wireless enhanced 911 service ((and reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 911 service pursuant to negotiated contracts between the counties or their agents and the radio communications service companies)) and cost recovery for the deployment, improvement, and maintenance of phase I and phase II wireless enhanced 911 service, including costs expended by the radio communications service company for such purposes, and for expenses of administering the fund.

(2) Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(((3))) (5) shall not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(1). Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(((4))) (6) shall not be distributed to any county that has not imposed the maximum county enhanced 911 excise tax allowed under RCW 82.14B.030(2).

(3) The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account.

(((4) During the 2001-2003 fiscal biennium, the legislature may transfer from the enhanced 911 account to the state general fund such amounts as reflect the excess fund balance of the account.))

**Sec.** 18. RCW 38.52.545 and 2001 c 128 s 3 are each amended to read as follows:

In specifying rules defining the purposes for which available state enhanced 911 moneys may be expended, the state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall consider base needs of individual counties for specific assistance. Priorities for available enhanced 911 funding are as follows: (1) To assure that 911 dialing is operational statewide; (2) to assist counties as necessary to assure that they can achieve a basic service level for 911 operations; and (3) to assist counties as practicable to acquire items of a capital nature appropriate to ((increasing)) modernize systems and increase 911 effectiveness.

**Sec.** 19. RCW 38.52.550 and 2002 c 341 s 5 are each amended to read as follows:

A telecommunications company, ((or)) radio communications service company, ((providing emergency communications systems or services)) interconnected voice over internet protocol service company, or a business or individual providing database information to enhanced 911 emergency communication ((system)) service personnel shall not be liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to a 911 or enhanced 911 emergency service; or

(2) Design, development, installation, maintenance, or provision of consolidated 911 or enhanced 911 emergency communication systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct.

**Sec.** 20. RCW 38.52.561 and 2002 c 341 s 6 are each amended to read as follows:

The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall set nondiscriminatory, uniform technical and operational standards consistent with the rules of the federal communications commission for the transmission of 911 calls from radio communications service companies and interconnected voice over internet protocol service companies to enhanced 911 emergency communications systems. These standards must not exceed the requirements set by the federal communications commission. The authority given to the state enhanced 911 coordinator in this section is limited to setting standards as set forth in this section and does not constitute authority to regulate radio communications service companies or interconnected voice over internet protocol service companies.

**Sec.** 21. RCW 43.79A.040 and 2008 c 239 s 9, 2008 c 208 s 9, 2008 c 128 s 20, and 2008 c 122 s 24 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the Washington international exchange scholarship endowment fund, the toll

collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec.** 22. The following acts or parts of acts are each repealed:

(1) RCW 82.14B.070 (Emergency service communication districts-- Authorized--Consolidation--Dissolution) and 1994 c 54 s 1 & 1987 c 17 s 1;

(2) RCW 82.14B.090 (Emergency service communication districts-- Emergency service communication system--Financing--Excise tax) and 1991 c 54 s 13 & 1987 c 17 s 3; and

(3) RCW 82.14B.100 (Emergency service communication districts-- Application of RCW 82.14B.040 through 82.14B.060) and 1991 c 54 s 14 & 1987 c 17 s 4.

**NEW SECTION. Sec.** 23. 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.** 24. The office of the code reviser may alphabetize the account names in RCW 43.79A.040 during codification.

**NEW SECTION. Sec.** 25. (1) Except as otherwise provided in this section, this act takes effect August 1, 2009.

(2) Sections 1 through 3, 5 through 8, 11 through 20, and 22 of this act take effect January 1, 2010."

Correct the title.

Representative Carlyle moved the adoption of amendment (435) to amendment (436):

On page 6 of the striking amendment, line 36, after "(1)" insert "Except as provided in subsection (3) of this section,"

On page 7 of the striking amendment, after line 11, insert the following:

"(3) For a county with a population of less than one million in population but more than seven hundred in population, the state treasurer must retain in the account created in section 4 of this act twenty cents per month for each switched access line, radio access line, and interconnected voice over internet protocol service line whose place of primary use is in that county, until the state treasurer and the department receive a letter from the state enhanced 911 coordinator indicating that:

(a) An operational agreement for delivery of enhanced 911 communications service in that county has been reached, including how the county enhanced 911 excise tax will be allocated between the public safety answering points within the county; and

(b) The state enhanced 911 coordinator has approved the operational agreement."

Representative Carlyle spoke in favor of the adoption of the amendment to amendment (436).

Amendment (435) to amendment (436) was adopted.

Amendment (436) as amended was adopted. The bill was ordered engrossed.

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

**POINT OF PARLIAMENTARY INQUIRY**

Representative Ericksen: "Thank you Mr. Speaker, point of parliamentary inquiry. Thank you Mr. Speaker, section 3 of Engrossed Second Substitute House Bill 2029 increases the state enhanced 911 excise tax from twenty cents per month to twenty five cents per month. The base tax is also extended to include interconnected voice over internet protocol service lines. The funds raised by the tax are deposited into the enhanced 911 account in the state treasury. Mr. Speaker, under the provisions of Initiative 960, RCW 43.135.035, Section 6 defines raises taxes to mean any action, or combination of actions by the legislature, that increases state tax revenue deposited in any fund, budget or account, regardless of whether the revenues are deposited into the general fund. Mr. Speaker does Engrossed Second Substitute House Bill 2029 require a two-thirds (2/3) vote for passage under Initiative 960? Thank you Mr. Speaker."

**SPEAKER'S RULING**

The Speaker (Representative Moeller presiding): "Thank you. The Speaker believes that under I-960, the bill requires a two-thirds (2/3) vote for final passage, in the House this requires 66 votes."

Representatives Ericks, Morris, Carlyle, McCoy, Kessler, Van De Wege, Morrell, Hurst, Kagi, Appleton and Morris (again) spoke in favor of the passage of the bill.

Representatives Orcutt, Haler, Klippert, Ericksen, Anderson, Johnson, Hinkle, Ross, Angel, Cox, Shea, Kretz and DeBolt spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2029.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2029 and the bill failed to pass the House by the following vote: Yeas, 58; Nays, 39; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hudgins, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Walsh and Warnick.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2029, not having received a two-thirds majority, failed.

**NOTICE OF RECONSIDERATION**

Having voted on the prevailing side, Representative Hudgins gave notice of his intent to request reconsideration of ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2029, on the following business day.

There being no objection, the House reverted to the fourth order of business.

**INTRODUCTION AND FIRST READING**

HJM 4017 by Representatives Chandler and Conway

Requesting that the United States Congress enact the AgJOBS legislation.

Referred to Committee on Commerce & Labor.

There being no objection, the joint memorial listed on the day's introduction sheet under the fourth order of business was referred to the committee so designated

**REPORTS OF STANDING COMMITTEES**

March 26, 2009

SSB 5056 Prime Sponsor, Committee on Health & Long-Term Care: Requiring health care professionals to report patient information in cases of violent injury. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 18.73 RCW to read as follows:

(1) Except when treatment is provided in a hospital licensed under chapter 70.41 RCW, a physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder who renders treatment to a patient for (a) a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm; (b) an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person; (c) a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act; or (d) injuries sustained in an automobile collision, shall disclose without the patient's authorization, upon a request from a federal, state, or local law enforcement authority as defined in RCW 70.02.010(3), the following information, if known:

(i) The name of the patient;

(ii) The patient's residence;

(iii) The patient's sex;

(iv) The patient's age;

(v) The patient's condition or extent and location of injuries as determined by the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;

(vi) Whether the patient was conscious when contacted;

(vii) Whether the patient appears to have consumed alcohol or appears to be under the influence of alcohol or drugs;

(viii) The name or names of the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder who provided treatment to the patient; and

(ix) The name of the facility to which the patient is being transported for additional treatment.

(2) A physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, first responder, or other individual who discloses information pursuant to this section is immune from civil or criminal liability or professional licensure action for the disclosure, provided that the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, first responder, or other individual acted in good faith and without gross negligence or willful or wanton misconduct.

(3) The obligation to provide information pursuant to this section is secondary to patient care needs. Information must be provided as soon as reasonably possible taking into consideration a patient's emergency care needs.

(4) For purposes of this section, "a physician's trained emergency medical service intermediate life support technician and paramedic" has the same meaning as in RCW 18.71.200.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.41 RCW to read as follows:

(1) A hospital shall report to a local law enforcement authority as soon as reasonably possible, taking into consideration a patient's emergency care needs, when the hospital provides treatment for a bullet wound, gunshot wound, or stab wound to a patient who is unconscious. A hospital shall establish a written policy to identify the person or persons responsible for making the report.

(2) The report required under subsection (1) of this section must include the following information, if known:

(a) The name, residence, sex, and age of the patient;

(b) Whether the patient has received a bullet wound, gunshot wound, or stab wound; and

(c) The name of the health care provider providing treatment for the bullet wound, gunshot wound, or stab wound.

(3) Nothing in this section shall limit a person's duty to report under RCW 26.44.030 or 74.34.035.

(4) Any bullets, clothing, or other foreign objects that are removed from a patient for whom a hospital is required to make a report pursuant to subsection (1) of this section shall be preserved and kept in custody in such a way that the identity and integrity thereof are reasonably maintained until the bullets, clothing, or other foreign objects are taken into possession by a law enforcement authority or the hospital's normal period for retention of such items expires, whichever occurs first.

(5) Any hospital or person who in good faith, and without gross negligence or willful or wanton misconduct, makes a report required by this section, cooperates in an investigation or criminal or judicial proceeding related to such report, or maintains bullets, clothing, or other foreign objects, or provides such items to a law enforcement authority as described in subsection (4) of this section, is immune from civil or criminal liability or professional licensure action arising out of or related to the report and its contents or the absence of information in the report, cooperation in an investigation or criminal or judicial proceeding, and the maintenance or provision to a law enforcement authority of bullets, clothing, or other foreign objects under subsection (4) of this section.

(6) The physician-patient privilege described in RCW 5.60.060(4), the registered nurse-patient privilege described in RCW 5.62.020, and any other health care provider-patient privilege created or recognized by law are not a basis for excluding as evidence in any criminal proceeding any report, or information contained in a report made under this section.

(7) All reporting, preservation, or other requirements of this section are secondary to patient care needs and may be delayed or compromised without penalty to the hospital or person required to fulfill the requirements of this section."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 25, 2009

SB 5060 Prime Sponsor, Senator Jacobsen: Modifying provisions relating to the use of manufactured wine or beer. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.12.010 and 1981 c 255 s 1 are each amended to read as follows:

Nothing in this title, other than RCW 66.28.140, applies to wine or beer manufactured in any home for private consumption ((~~therein~~)), and not for sale.

**Sec. 2.** RCW 66.28.140 and 1994 c 201 s 6 are each amended to read as follows:

(1) An adult member of a household may remove family beer or wine from the home ((~~for exhibition or use at organized beer or wine tastings or competitions,~~)) subject to the following conditions:

(a) The quantity removed by a producer ((~~for these purposes~~)) is limited to a quantity not exceeding ((~~one~~)) twenty gallons;

(b) Family beer or wine is not removed for sale ((~~or for the use of any person other than the producer. This subparagraph does not preclude any necessary tasting of the beer or wine when the exhibition or beer or wine tasting includes judging the merits of the wine by judges who have been selected by the organization sponsoring the affair~~)); and

(c) ((~~When the display contest or judging purpose has been served, any remaining portion of the sample is returned to the family premises from which removed~~)) Family beer or wine is removed from the home for private use, including use at organized affairs, exhibitions, or competitions such as homemaker's contests, tastings, or judging.

(2) As used in this section, "family beer or wine" means beer or wine manufactured in the home for private consumption ((~~therein~~)), and not for sale."

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

Passed to Committee on Rules for second reading.

March 27, 2009

ESSB 5110 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Allowing spas, wedding boutiques, and art galleries to serve wine or beer to their customers who are twenty-one years of age or older. (REVISED FOR ENGROSSED: Allowing wedding boutiques and art galleries to serve wine or beer to their customers who are twenty-one years of age or older. ) Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 1, line 14, after "wine" insert "or beer"

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

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5120 Prime Sponsor, Senator Fairley: Regarding agricultural structures. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that permit and inspection fees for new agricultural structures should not exceed the direct and indirect costs associated with reviewing permit applications, conducting inspections, and preparing specific environmental documents.

**Sec. 2.** RCW 19.27.015 and 1996 c 157 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public;

(2) "City" means a city or town;

(((~~(2)~~))) (3) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than five thousand square feet in area, and that have a one-hour fire-resistive occupancy separation between units; and

(((~~(3)~~))) (4) "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

**NEW SECTION. Sec. 3.** A new section is added to chapter 19.27 RCW to read as follows:

Permitting and plan review fees under this chapter for agricultural structures may only cover the costs to counties, cities, towns, and other municipal corporations of processing applications, inspecting and reviewing plans, preparing detailed statements required by chapter 43.21C RCW, and performing necessary inspections under this chapter.

**Sec. 4.** RCW 19.27.100 and 1975 1st ex.s. c 8 s 1 are each amended to read as follows:

Except for permitting fees for agricultural structures under section 3 of this act, nothing in this chapter shall prohibit a city, town, or county of the state from imposing fees different from those set forth in the state building code.

**NEW SECTION. Sec. 5.** (1) The state auditor, in accordance with RCW 43.09.470, must conduct a performance audit of the reasonableness of building and inspection fees permitted under RCW 82.02.020 that are imposed by counties, cities, towns, and other municipal corporations under chapter 19.27 RCW. In completing the audit, the state auditor must include guidance on determining allowable costs, and methodologies for allocating costs to specific projects. The state auditor, when developing written cost allocation guidance, must consider variances in the sizes of local government entities.

(2) In completing the audit report required by this section, the state auditor must establish and consult with a local government advisory committee. The advisory committee must consist of members from county and city governments and other interested parties, as determined by the auditor.

(3) The state auditor must provide a final audit report to the appropriate committees of the house of representatives and the senate by December 1, 2009.

(4) Revenues from the performance audits of the government account created in RCW 43.09.475 must be used for the audit required by this section.

(5) This section expires July 1, 2011."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

Referred to Committee on General Government Appropriations.

March 26, 2009

SB 5125 Prime Sponsor, Senator Hewitt: Concerning the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account. Reported by Committee on General Government Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong; Blake; Crouse; Dunshee; Hudgins; Kenney; Pedersen; Sells; Short; Van De Wege and Williams.

Passed to Committee on Rules for second reading.

March 25, 2009

SSB 5141 Prime Sponsor, Committee on Human Services & Corrections: Creating a pilot program to increase family participation in juvenile offender programs. Reported by Committee on Human Services

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Green; Morrell and O'Brien.

MINORITY recommendation: Do not pass. Signed by Representatives Dammeier, Ranking Minority Member; Klippert and Walsh.

Referred to Committee on Health & Human Services Appropriations.

March 26, 2009

SSB 5152 Prime Sponsor, Committee on Judiciary: Creating a legislative task force on statutory construction. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 2, after line 17, insert the following:
"(vi) The code reviser or the code reviser's designee;"
Renumber the remaining subsections consecutively.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5195 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Adopting the life settlements model act. Reported by Committee on General Government Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority

Member; Armstrong; Blake; Crouse; Dunshee; Hudgins; Kenney; Pedersen; Sells; Short and Van De Wege.

MINORITY recommendation: Without recommendation. Signed by Representative Williams.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5229 Prime Sponsor, Committee on Early Learning & K-12 Education: Regarding the legislative youth advisory council. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander; Flannigan; Hurst and Miloscia.

Passed to Committee on Rules for second reading.

March 25, 2009

SSB 5252 Prime Sponsor, Committee on Human Services & Corrections: Addressing correctional facility policies regarding medication management. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 16, after "shall" strike "consult with" and insert "include"

On page 2, line 9, after "2009." Insert "Any minority position related to the substance of the final model policy shall be presented as an addendum to the policy."

On page 6, line 25, after "procedures" insert "and monitor their compliance with the procedures"

On page 6, at the beginning of line 27, strike "seek input from" and insert "consult with"

On page 6, line 27, after "pharmacists," strike "licensed physicians, or nurses" and insert "and one or more licensed physicians or nurses,"

On page 7, after line 23, insert the following:

"**NEW SECTION. Sec. 5.** The department of health shall annually review the medication practices of five jails that provide for the delivery and administration of medications to inmates in their custody by nonpractitioner jail personnel. The review shall assess whether the jails are in compliance with sections 3 and 4 of this act. To the extent that a jail is found not in compliance, the department shall provide technical assistance to assist the jail in resolving any areas of noncompliance."

Renumber the remaining section.

Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green; Klippert; Morrell; O'Brien and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5268 Prime Sponsor, Committee on Natural Resources, Ocean & Recreation: Creating the fish and wildlife equipment revolving account. Reported by Committee on General Government Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Natural Resources (For committee amendment, see Journal, Day 71, March 23, 2009). Signed by Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong; Blake; Crouse; Dunshee; Hudgins; Kenney; Pedersen; Sells; Short; Van De Wege and Williams.

Passed to Committee on Rules for second reading.

March 26, 2009

ESSB 5288 Prime Sponsor, Committee on Human Services & Corrections: Reducing the categories of offenders supervised by the department of corrections. (REVISED FOR ENGROSSED: Changing provisions regarding supervision of offenders. ) Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended:

On page 2, line 29, after "~~offender~~))" insert the following:

"The department shall supervise every misdemeanor and gross misdemeanor probationer ordered by superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. The superior court shall order probation for:

(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145 and who also have a prior conviction for one or more of the following:

(i) A violent offense;

(ii) A sex offense;

(iii) A crime against a person as provided in RCW 9.94A.411;

(iv) Fourth degree assault; or

(v) Violation of a domestic violence court order; and

(b) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree; or

(iii) Communication with a minor for immoral purposes.

(2)"

On page 2, beginning on line 30, after "custody" strike ":

(a) Whose" and insert "whose"

On page 2, beginning on line 33, after "categories" strike "; or

(b)(i) Who is not classified in one of the two highest risk categories and:

(A) Has the current felony conviction for a violent offense or a crime against persons as provided in RCW 9.94A.411; or

(B) Is required to participate in chemical dependency treatment as a condition of community custody;

(ii) The department shall terminate supervision for an offender supervised pursuant to this subsection (1)(b) six months after the date of release of the offender, after conducting a new risk assessment, is still not classified in one of the two highest risk categories"

On page 3, line 7, strike "(2)" and insert "(3)"

On page 3, line 19, strike "(3)" and insert "((~~3~~)) (4)"

On page 3, line 24, strike "(4)" and insert "((~~4~~)) (5)"

Signed by Representatives Dickerson, Chair; Dammeier, Ranking Minority Member; Green; Morrell and O'Brien.

MINORITY recommendation: Do not pass. Signed by Representatives Orwall, Vice Chair; Klippert and Walsh.

Referred to Committee on Ways & Means.

March 26, 2009

SB 5320 Prime Sponsor, Senator Murray: Modifying the name of and titles within the acupuncture profession. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** INTENT. The legislature intends this act to recognize that acupuncturists licensed by the state of Washington are practicing a system of medicine, and that changing the name of their title to "Oriental medicine practitioners" more appropriately captures the nature and scope of their work. It is further the intent that references in federal law to "acupuncturists" apply to persons licensed under this act as "Oriental medicine practitioners."

**Sec. 2.** RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) ((~~"Acupuncture"~~)) "Oriental medicine" means a health care service based on an Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians. ((~~Acupuncture~~)) Oriental medicine includes the following techniques:

(a) Use of acupuncture needles to stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); and

(k) Dietary advice based on Oriental medical theory provided in conjunction with techniques under (a) through (j) of this subsection.

(2) ((~~"Acupuncturist"~~)) "Oriental medicine practitioner" means a person licensed under this chapter.

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

(4) "Secretary" means the secretary of health or the secretary's designee.

**Sec. 3.** RCW 18.06.020 and 1995 c 323 s 5 are each amended to read as follows:

(1) No one may hold themselves out to the public as an acupuncturist or ((~~licensed acupuncturist~~)) Oriental medicine practitioner or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or ((~~licensed acupuncturist~~)) Oriental medicine practitioner unless licensed as provided for in this chapter.

(2) A person may not practice Oriental medicine, including acupuncture, if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including Ac. or OMP) which indicates a degree or formal training in Oriental medicine, including acupuncture, unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter. Only a person licensed as an Oriental medicine practitioner under this chapter may also refer to himself or herself as an acupuncturist.

(5) Any person licensed as an acupuncturist under this chapter prior to the effective date of this act must, at the date of their next license renewal date, be given the title Oriental medicine practitioner.

**Sec. 4.** RCW 18.06.045 and 1995 c 323 s 6 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of ((~~acupuncture~~)) Oriental medicine by any person credentialed to perform ((~~acupuncture~~)) Oriental medicine services in any other jurisdiction where such person is doing so in the course of regular instruction of a school of ((~~acupuncture~~)) Oriental medicine approved by the secretary or in an educational seminar by a professional organization of acupuncture, provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice includes ((~~acupuncture~~)) Oriental medicine.

**Sec. 5.** RCW 18.06.050 and 2004 c 262 s 2 are each amended to read as follows:

Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and Oriental medicine, including acupuncture, over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in acupuncture that is approved by the secretary.

**Sec. 6.** RCW 18.06.080 and 1995 c 323 s 7 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in

((~~acupuncture~~)) Oriental medicine at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by ((~~licensed acupuncturists~~)) Oriental medicine practitioners and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of ((~~Licensed Acupuncturist~~)) Oriental Medicine Practitioner.

(4) The secretary may appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(5) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

**Sec. 7.** RCW 18.06.120 and 1996 c 191 s 3 are each amended to read as follows:

(1) Every person licensed ((~~in acupuncture~~)) under this chapter shall comply with the administrative procedures and administrative requirements for registration and renewal set by the secretary under RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320.

**Sec. 8.** RCW 18.06.130 and 2003 c 53 s 121 are each amended to read as follows:

(1) The secretary shall develop a form to be used by ((~~an acupuncturist~~)) a person licensed under this chapter to inform the patient of the ((~~acupuncturist's~~)) scope of practice and qualifications of an Oriental medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor.

**Sec. 9.** RCW 18.06.140 and 2003 c 53 s 122 are each amended to read as follows:

(1) Every licensed ((~~acupuncturist~~)) Oriental medicine practitioner shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

(2) When ((~~the acupuncturist~~)) a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the ((~~acupuncturist~~)) person shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, ((~~acupuncture~~)) Oriental medicine treatment shall not be continued.

(3) A person violating this section is guilty of a misdemeanor.

**Sec. 10.** RCW 18.06.190 and 1995 c 323 s 13 are each amended to read as follows:

The secretary may license a person without examination if such person is credentialed as an ((~~acupuncturist~~)) Oriental medicine practitioner in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

**Sec. 11.** RCW 4.24.240 and 1995 c 323 s 1 are each amended to read as follows:

(1)(a) A person licensed by this state to provide health care or related services((~~,~~)) including, but not limited to, ((~~a licensed acupuncturist~~)) an Oriental medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, ((~~physician's~~)) physician assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in ((~~subparagraph~~)) (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in ((~~subparagraph~~)) (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

**Sec. 12.** RCW 4.24.290 and 1995 c 323 s 2 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an ((~~acupuncturist~~)) Oriental medicine practitioner licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate

result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

**Sec. 14.** RCW 7.70.020 and 1995 c 323 s 3 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services((,)) including, but not limited to, ((~~a licensed acupuncturist~~)) an Oriental medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, ((~~physician's~~)) physician assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

**Sec. 13.** RCW 18.120.020 and 2001 c 251 s 26 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; ((~~acupuncturists~~)) Oriental medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

**Sec. 15.** RCW 18.130.040 and 2009 c 2 s 16 (Initiative Measure No. 1029) are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) ((~~Acupuncturists~~)) Oriental medicine practitioners licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiv) Athletic trainers licensed under chapter 18.250 RCW; and

(xxv) Home care aides certified under chapter 18.88B RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**Sec. 16.** RCW 43.70.110 and 2007 c 259 s 11 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

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

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

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

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and ((~~acupuncturists~~)) Oriental medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred

by the department to the University of Washington for the purposes of RCW 43.70.112.

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

**NEW SECTION. Sec. 17.** Captions used in this act are not any part of the law."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5340 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Concerning internet and mail order sales of tobacco products. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.155.010 and 2006 c 14 s 2 are each amended to read as follows:

The definitions set forth in RCW 82.24.010 shall apply to ((~~RCW 70.155.020 through 70.155.130~~)) this chapter. In addition, for the purposes of this chapter, unless otherwise required by the context:

(1) "Board" means the Washington state liquor control board.

(2) ((~~"Delivery sale" means any sale of cigarettes to a consumer in the state where either: (a) The purchaser submits an order for a sale by means of a telephonic or other method of voice transmission, mail delivery, any other delivery service, or the internet or other online service; or (b) the cigarettes are delivered by use of mail delivery or any other delivery service. A sale of cigarettes shall be a delivery sale regardless of whether the seller is located within or without the state. A sale of cigarettes not for personal consumption to a person who is a wholesaler licensed pursuant to chapter 82.24 RCW or a retailer pursuant to chapter 82.24 RCW is not a delivery sale.~~

~~(3) "Delivery service" means any private carrier engaged in the commercial delivery of letters, packages, or other containers that requires the recipient of that letter, package, or container to sign to accept delivery.~~

~~(4)~~)) "Internet" means any computer network, telephonic network, or other electronic network.

(3) "Minor" refers to an individual who is less than eighteen years old.

(((~~(5)~~))) (4) "Sample" means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotion purposes.

(((~~(6)~~))) (5) "Sampling" means the distribution of samples to members of the public.

(((~~(7) "Shipping container" means a container in which cigarettes are shipped in connection with a delivery sale.~~

~~(8) "Shipping documents" means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.~~

~~(9)~~)) (6) "Tobacco product" means a product that contains tobacco and is intended for human use, including any product defined in RCW 82.24.010(2) or 82.26.010(1), except that for the purposes of section 2 of this act only, "tobacco product" does not include cigars as defined in RCW 82.26.010.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.155 RCW to read as follows:

(1) A person may not:

(a) Ship or transport, or cause to be shipped or transported, any tobacco product ordered or purchased by mail or through the internet to anyone in this state other than a licensed wholesaler or retailer; or

(b) With knowledge or reason to know of the violation, provide substantial assistance to a person who is in violation of this section.

(2)(a) A person who knowingly violates subsection (1) of this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated subsection (1) of this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court. For purposes of this subsection, each shipment or transport of tobacco products constitutes a separate violation.

(3) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of subsection (1) of this section and to compel compliance with subsection (1) of this section.

(4) Any violation of subsection (1) of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Standing to bring an action to enforce RCW 19.86.020 for violation of subsection (1) of this section lies solely with the attorney general. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

(5)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated subsection (1) of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

(6) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

**NEW SECTION. Sec. 3.** RCW 70.155.105 (Delivery sale of cigarettes--Requirements, unlawful practices--Penalties--Enforcement) and 2003 c 113 s 2 are each repealed."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Referred to Committee on General Government Appropriations.

March 26, 2009

SSB 5343 Prime Sponsor, Committee on Judiciary: Exempting specified persons from restrictions on marketing estate distribution documents. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

2SSB 5346 Prime Sponsor, Committee on Ways & Means: Concerning administrative procedures for payors and providers of health care services. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) The health care system in the nation and in Washington state costs nearly twice as much per capita as other industrialized nations.

(2) The fragmentation and variation in administrative processes prevalent in our health care system contribute to the high cost of health care, putting it increasingly beyond the reach of small businesses and individuals in Washington.

(3) In 2006, the legislature's blue ribbon commission on health care costs and access requested the office of the insurance commissioner to conduct a study of administrative costs and recommendations to reduce those costs. Findings in the report included:

(a) In Washington state approximately thirty cents of every dollar received by hospitals and doctors' offices is consumed by the administrative expenses of public and private payors and the providers;

(b) Before the doctors and hospitals receive the funds for delivering the care, approximately fourteen percent of the insurance premium has already been consumed by payor administration. The payor's portion of expense totals approximately four hundred fifty dollars per insurance member per year in Washington state;

(c) Over thirteen percent of every dollar received by a physician's office is devoted to interactions between the provider and payor;

(d) Between 1997 and 2005, billing and insurance related costs for hospitals in Washington grew at an average pace of nineteen percent per year; and

(e) The greatest opportunity for improved efficiency and administrative cost reduction in our health care system would involve standardizing and streamlining activities between providers and payors.

(4) To address these inefficiencies, constrain health care inflation, and make health care more affordable for Washingtonians, the legislature seeks to establish streamlined and uniform procedures for payors and providers of health care services in the state. It is the intent of the legislature to foster a continuous quality improvement cycle to simplify health care administration. This process should involve leadership in the health care industry and health care purchasers, with regulatory oversight from the office of the insurance commissioner.

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

(1) "Commissioner" means the insurance commissioner as established under chapter 48.02 RCW.

(2) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005 and, for the purposes of this act, shall include facilities licensed under chapter 70.41 RCW.

(3) "Lead organization" means a private sector organization or organizations designated by the commissioner to lead development of processes, guidelines, and standards to streamline health care administration and to be adopted by payors and providers of health care services operating in the state.

(4) "Medical management" means administrative activities established by the payor to manage the utilization of services through preservice or postservice reviews. "Medical management" includes, but is not limited to:

(a) Prior authorization or preauthorization of services;

(b) Precertification of services;

(c) Postservice review;

(d) Medical necessity review; and

(e) Benefits advisory.

(5) "Payor" means public purchasers, as defined in this section, carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62 RCW, and the Washington state health insurance pool established in chapter 48.41 RCW.

(6) "Public purchaser" means the department of social and health services, the department of labor and industries, and the health care authority.

(7) "Secretary" means the secretary of the department of health.

(8) "Third-party payor" has the same meaning as in RCW 70.02.010.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.14 RCW to read as follows:

The following state agencies are directed to cooperate with the insurance commissioner and, within funds appropriated specifically for this purpose, adopt the processes, guidelines, and standards to streamline health care administration pursuant to sections 2, 5, 6, and 8 through 10 of this act: The department of social and health services, the health care authority, and, to the extent permissible under Title 51 RCW, the department of labor and industries.

**Sec. 4.** RCW 70.47.130 and 2004 c 115 s 2 are each amended to read as follows:

(1) The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their participation in the plan, are exempt from the provisions and requirements of Title 48 RCW except:

(a) Benefits as provided in RCW 70.47.070;

(b) Managed health care systems are subject to the provisions of RCW 48.43.022, 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, and 70.02.900;

(c) Persons appointed or authorized to solicit applications for enrollment in the basic health plan, including employees of the health care authority, must comply with chapter 48.17 RCW. For purposes of this subsection (1)(c), "solicit" does not include distributing information and applications for the basic health plan and responding to questions; ((~~and~~))

(d) Amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan must comply with RCW 48.14.0201; and

(e) Administrative simplification requirements as provided in this act.

(2) The purpose of the 1994 amendatory language to this section in chapter 309, Laws of 1994 is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

**NEW SECTION. Sec. 5.** (1) The commissioner shall designate one or more lead organizations to coordinate development of processes, guidelines, and standards to streamline health care administration and to be adopted by payors and providers of health care services operating in the state. The lead organization designated by the commissioner for this act shall:

(a) Be representative of providers and payors across the state;

(b) Have expertise and knowledge in the major disciplines related to health care administration; and

(c) Be able to support the costs of its work without recourse to public funding.

(2) The lead organization shall:

(a) In collaboration with the commissioner, identify and convene work groups, as needed, to define the processes, guidelines, and standards required in sections 6 through 10 of this act;

(b) In collaboration with the commissioner, promote the participation of representatives of health care providers, payors of health care services, and others whose expertise would contribute to streamlining health care administration;

(c) Conduct outreach and communication efforts to maximize adoption of the guidelines, standards, and processes developed by the lead organization;

(d) Submit regular updates to the commissioner on the progress implementing the requirements of this act; and

(e) With the commissioner, report to the legislature annually through December 1, 2012, on progress made, the time necessary for completing tasks, and identification of future tasks that should be prioritized for the next improvement cycle.

(3) The commissioner shall:

(a) Participate in and review the work and progress of the lead organization, including the establishment and operation of work groups for this act;

(b) Adopt into rule, or submit as proposed legislation, the guidelines, standards, and processes set forth in this act if:

(i) The lead organization fails to timely develop or implement the guidelines, standards, and processes set forth in sections 6 through 10 of this act; or

(ii) It is unlikely that there will be widespread adoption of the guidelines, standards, and processes developed under this act;

(c) Consult with the office of the attorney general to determine whether an antitrust safe harbor is necessary to enable licensed carriers and providers to develop common rules and standards; and, if necessary, take steps, such as implementing rules or requesting legislation, to establish such safe harbor; and

(d) Convene an executive level work group with broad payor and provider representation to advise the commissioner regarding the goals and progress of implementation of the requirements of this act.

**NEW SECTION. Sec. 6.** By December 31, 2010, the lead organization shall:

(1) Develop a uniform electronic process for collecting and transmitting the necessary provider-supplied data to support credentialing, admitting privileges, and other related processes that:

(a) Reduces the administrative burden on providers;

(b) Improves the quality and timeliness of information for hospitals and payors;

(c) Is interoperable with other relevant systems;

(d) Enables use of the data by authorized participants for other related applications; and

(e) Serves as the sole source of credentialing information required by hospitals and payors from providers for data elements included in the electronic process, except this shall not prohibit:

(i) A hospital, payor, or other credentialing entity subject to the requirements of this section from seeking clarification of information obtained through use of the uniform electronic process, if such clarification is reasonably necessary to complete the credentialing process; or

(ii) A hospital, payor, other credentialing entity, or a university from using information not provided by the uniform process for the purpose of credentialing, admitting privileges, or faculty appointment of providers, including peer review and coordinated quality improvement information, that is obtained from sources other than the provider;

(2) Promote widespread adoption of such process by payors and hospitals, their delegates, and subcontractors in the state that credential health professionals and by such health professionals as soon as possible thereafter; and

(3) Work with the secretary to assure that data used in the uniform electronic process can be electronically exchanged with the department of health professional licensing process under chapter 18.122 RCW.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.122 RCW to read as follows:

Pursuant to sections 5 and 6 of this act, the secretary or his or her designee shall participate in the work groups and, within funds appropriated specifically for this purpose, implement the standards to enable the department to transmit data to and receive data from the uniform process.

**NEW SECTION. Sec. 8.** The lead organization shall:

(1) Establish a uniform standard companion document and data set for electronic eligibility and coverage verification. Such a companion guide will:

(a) Be based on nationally accepted ANSI X12 270/271 standards for eligibility inquiry and response and, wherever possible, be consistent with the standards adopted by nationally recognized organizations, such as the centers for medicare and medicaid services;

(b) Enable providers and payors to exchange eligibility requests and responses on a system-to-system basis or using a payor supported web browser;

(c) Provide reasonably detailed information on a consumer's eligibility for health care coverage, scope of benefits, limitations and exclusions provided under that coverage, cost-sharing requirements for specific services at the specific time of the inquiry, current deductible amounts, accumulated or limited benefits, out-of-pocket maximums, any maximum policy amounts, and other information required for the provider to collect the patient's portion of the bill; and

(d) Reflect the necessary limitations imposed on payors by the originator of the eligibility and benefits information;

(2) Recommend a standard or common process to the commissioner to protect providers and hospitals from the costs of, and payors from claims for, services to patients who are ineligible for insurance coverage in circumstances where a payor provides eligibility verification based on best information available to the payor at the date of the request; and

(3) Complete, disseminate, and promote widespread adoption by payors of such document and data set by December 31, 2010.

**NEW SECTION. Sec. 9.** (1) By December 31, 2010, the lead organization shall develop implementation guidelines and promote widespread adoption of such guidelines for:

(a) The use of the national correct coding initiative code edit policy by payors and providers in the state;

(b) Publishing any variations from component codes, mutually exclusive codes, and status b codes by payors in a manner that makes for simple retrieval and implementation by providers;

(c) Use of health insurance portability and accountability act standard group codes, reason codes, and remark codes by payors in electronic remittances sent to providers;

(d) The processing of corrections to claims by providers and payors; and

(e) A standard payor denial review process for providers when they request a reconsideration of a denial of a claim that results from differences in clinical edits where no single, common standards body or process exists and multiple conflicting sources are in use by payors and providers.

(2) By October 31, 2010, the lead organization shall develop a proposed set of goals and work plan for additional code standardization efforts for 2011 and 2012.

(3) Nothing in this section or in the guidelines developed by the lead organization shall inhibit an individual payor's ability to employ, and not disclose to providers, temporary code edits for the purpose of detecting and deterring fraudulent billing activities. Though such temporary code edits are not required to be disclosed to providers, the guidelines shall require that:

(a) Each payor disclose to the provider its adjudication decision on a claim that was denied or adjusted based on the application of such an edit; and

(b) The provider have access to the payor's review and appeal process to challenge the payor's adjudication decision, provided that nothing in this subsection (3)(b) shall be construed to modify the rights or obligations of payors or providers with respect to procedures relating to the investigation, reporting, appeal, or prosecution under applicable law of potentially fraudulent billing activities.

**NEW SECTION. Sec. 10.** (1) By December 31, 2010, the lead organization shall:

(a) Develop and promote widespread adoption by payors and providers of guidelines to:

(i) Ensure payors do not automatically deny claims for services when extenuating circumstances make it impossible for the provider to: (A) Obtain a preauthorization before services are performed; or (B) notify a payor within twenty-four hours of a patient's admission; and

(ii) Require payors to use common and consistent time frames when responding to provider requests for medical management approvals. Whenever possible, such time frames shall be consistent with those established by leading national organizations and be based upon the acuity of the patient's need for care or treatment;

(b) Develop, maintain, and promote widespread adoption of a single common web site where providers can obtain payors' preauthorization, benefits advisory, and preadmission requirements;

(c) Establish guidelines for payors to develop and maintain a web site that providers can employ to:

(i) Request a preauthorization, including a prospective clinical necessity review;

(ii) Receive an authorization number; and

(iii) Transmit an admission notification.

(2) By October 31, 2010, the lead organization shall propose to the commissioner a set of goals and work plan for the development of medical management protocols, including whether to develop evidence-based medical management practices addressing specific clinical conditions and make its recommendation to the commissioner, who shall report the lead organization's findings and recommendations to the legislature.

**NEW SECTION. Sec. 11.** Sections 2, 5, 6, and 8 through 10 of this act constitute a new chapter in Title 48 RCW."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Referred to Committee on Ways & Means.

March 26, 2009

SB 5354 Prime Sponsor, Senator Haugen: Regarding public hospital capital facility areas. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Beginning on page 1, line 18, after "islands" strike all material through "boundaries" on page 2, line 4, and insert "that receives medical services from a hospital district, but is prevented by geography and the absence of contiguous boundaries from annexing to that district"

Beginning on page 2, line 16, strike all of section 3 and insert the following:

"**NEW SECTION. Sec. 3.** ESTABLISHING A PUBLIC HOSPITAL CAPITAL FACILITY AREA--BALLOT PROPOSITIONS. (1)(a) Upon receipt of a completed petition to both establish a public hospital capital facility area and submit a ballot proposition under section 7 of this act to finance public hospital capital facilities and other capital health care facilities, the legislative authority of the county in which a proposed public hospital capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed public hospital capital facility area and authorizing the public hospital capital facility area, if established, to finance public hospital capital facilities or other capital health care facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. A petition submitted under this section must be accompanied by a written request to establish a public hospital capital facility area that is signed by a majority of the commissioners of the public hospital district serving the proposed area.

(b) The ballot propositions must be submitted to voters of the proposed public hospital capital facility area at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed public hospital capital facility area is already holding a special election under RCW 29A.04.330. Approval of the ballot proposition to create a public hospital capital facility area requires a sixty percent affirmative vote by the voters participating in the election.

(2) A completed petition submitted under this section must include:

(a) A description of the boundaries of the public hospital capital facility area; and

(b) A copy of a resolution of the legislative authority of each city, town, and hospital district with territory in the proposed public hospital capital facility area indicating both: (i) Approval of the creation of the proposed public hospital capital facility area; and (ii)

agreement on how election costs will be paid for ballot propositions to voters that authorize the public hospital capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness."

On page 3, line 16, after "facility" insert "area"

On page 3, line 21, after "proposed" strike "district" and insert "public hospital capital facility area"

On page 5, at the beginning of line 36, strike "chapter 70.44 RCW" and insert "this chapter"

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

Referred to Committee on Finance.

March 26, 2009

SB 5355 Prime Sponsor, Senator Haugen: Regarding initial levy rates for rural county library districts. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 27.12.040 and 1990 c 259 s 1 are each amended to read as follows:

The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county who voted in the last general election, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the county legislative authority. For all districts created after the effective date of this act, the petition may include a proposed initial maximum levy rate. This initial maximum levy rate must not exceed the rate limit set forth in RCW 27.12.050(1).

(2) The county legislative authority, after having determined that the petitions were signed by the requisite number of registered voters, shall place the proposition for the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election. If the petition to create the rural county library district included a proposed initial maximum levy rate, the ballot proposition for the establishment of the rural county library district must include the initial maximum levy rate specified in the petition. This ballot must be submitted in such form as to enable the voters favoring the proposition to vote "Yes" and those opposing to vote "No."

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the county legislative authority shall forthwith declare it established.

**Sec. 2.** RCW 27.12.050 and 1973 1st ex.s. c 195 s 5 are each amended to read as follows:

(1) After the board of county commissioners has declared a rural county library district established, it shall appoint a board of library trustees and provide funds for the establishment and maintenance of library service for the district by making a tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year sufficient for the library service as shown to be required by the budget submitted to the board of county commissioners by the board of library trustees, and by making a tax levy in such further amount as shall be authorized pursuant to RCW 27.12.222 or 84.52.052 or 84.52.056. Such levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district.

(2) The initial levy rate may not exceed the rate limit in subsection (1) of this section or, if applicable, the initial maximum levy rate contained in the ballot proposition approved by the voters to create the district. In subsequent years, the levy rate may be increased as authorized under chapter 84.55 RCW."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5360 Prime Sponsor, Committee on Health & Long-Term Care: Establishing a community health care collaborative grant program. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The community health care collaborative grant program is established to further the efforts of community-based coalitions to increase access to appropriate, affordable health care for Washington residents, particularly employed low-income persons and children in school who are uninsured and underinsured, through local programs addressing one or more of the following: (a) Access to medical treatment; (b) the efficient use of health care resources; and (c) quality of care.

(2) Consistent with funds appropriated for community health care collaborative grants specifically for this purpose, two-year grants may be awarded pursuant to section 2 of this act by the administrator of the health care authority.

(3) The health care authority shall provide administrative support for the program. Administrative support activities may include health care authority facilitation of statewide discussions regarding best practices and standardized performance measures among grantees, or subcontracting for such discussions.

(4) Eligibility for community health care collaborative grants shall be limited to nonprofit organizations established to serve a defined geographic region or organizations with public agency status under the jurisdiction of a local, county, or tribal government. To be eligible, such entities must have a formal collaborative governance structure and decision-making process that includes representation by the following health care providers: Hospitals, public health, behavioral health, community health centers, rural health clinics, and private practitioners that serve low-income persons in the region, unless there are no such providers within the region, or providers decline or refuse to participate or place unreasonable conditions on their participation. The nature and format of the application, and the application procedure, shall be determined by the administrator of the health care authority. At a minimum, each application shall: (a)

Identify the geographic region served by the organization; (b) show how the structure and operation of the organization reflects the interests of, and is accountable to, this region and members providing care within this region; (c) indicate the size of the grant being requested, and how the money will be spent; and (d) include sufficient information for an evaluation of the application based on the criteria established in section 2 of this act.

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

(1) The community health care collaborative grants shall be awarded on a competitive basis based on a determination of which applicant organization will best serve the purposes of the grant program established in section 1 of this act. In making this determination, priority for funding shall be given to the applicants that demonstrate:

(a) The initiatives to be supported by the community health care collaborative grant are likely to address, in a measurable fashion, documented health care access and quality improvement goals aligned with state health policy priorities and needs within the region to be served;

(b) The applicant organization must document formal, active collaboration among key community partners that includes local governments, school districts, large and small businesses, nonprofit organizations, tribal governments, carriers, private health care providers, and public health agencies;

(c) The applicant organization will match the community health care collaborative grant with funds from other sources. The health care authority may award grants solely to organizations providing at least two dollars in matching funds for each community health care collaborative grant dollar awarded;

(d) The community health care collaborative grant will enhance the long-term capacity of the applicant organization and its members to serve the region's documented health care access needs, including the sustainability of the programs to be supported by the community health care collaborative grant;

(e) The initiatives to be supported by the community health care collaborative grant reflect creative, innovative approaches which complement and enhance existing efforts to address the needs of the uninsured and underinsured and, if successful, could be replicated in other areas of the state; and

(f) The programs to be supported by the community health care collaborative grant make efficient and cost-effective use of available funds through administrative simplification and improvements in the structure and operation of the health care delivery system.

(2) The administrator of the health care authority shall endeavor to disburse community health care collaborative grant funds throughout the state, supporting collaborative initiatives of differing sizes and scales, serving at-risk populations.

(3) Grants shall be disbursed over a two-year cycle, provided the grant recipient consistently provides timely reports that demonstrate the program is satisfactorily meeting the purposes of the grant and the objectives identified in the organization's application. The requirements for the performance reports shall be determined by the health care authority administrator. The performance measures shall be aligned with the community health care collaborative grant program goals and, where possible, shall be consistent with statewide policy trends and outcome measures required by other public and private grant funders.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

By July 1st of each even-numbered fiscal year the administrator of the health care authority shall provide the governor and the legislature with an evaluation of the community health care collaborative grant program, describing the organizations and collaborative initiatives funded and the results achieved. The report shall include the impact of the program, results of performance measures, general findings, and recommendations.

**NEW SECTION. Sec. 4.** The health care authority may adopt rules to implement this act."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Referred to Committee on Ways & Means.

March 26, 2009

SSB 5368 Prime Sponsor, Committee on Ways & Means: Making provisions for all counties to value property annually for property tax purposes. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

Beginning on page 4, line 9, strike all of section 5 and insert the following:

"**Sec. 5.** RCW 82.45.180 and 2006 c 312 s 1 are each amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer shall collect a five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of five dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than five dollars. Through June 30, 2006, the county treasurer shall place one percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. After June 30, 2006, the county treasurer shall place one and three-tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer shall pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by 12:00 p.m. on the last working day of each month. The county treasurer shall account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer shall deposit the proceeds in the general fund.

(b) For purposes of this subsection, the definitions in this subsection apply.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last working day of the month. This definition of "month's transmittal" shall not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and receipted by the county from the taxes imposed by this chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

(3)(a) The real estate excise tax electronic technology account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the real estate excise tax electronic technology account. By the twentieth day of the subsequent month, the state treasurer shall distribute to each county treasurer according to the following formula: Three-quarters of the funds available shall be equally distributed among the thirty-nine counties; and the balance shall be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds shall be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by the earlier of: July 1, 2015, or at such time that the county treasurer is utilizing an electronic processing and reporting system for real estate excise tax affidavits compatible with the department and compatible with the processes used in the offices of the county assessor and county assessor, revert to the ((~~county capital improvements fund in accordance with RCW 82.46.010~~)) special real estate and property tax administration assistance account in accordance with subsection (5)(c) of this section.

(4) Beginning July 1, 2010, through December 31, 2013, the county treasurer shall continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. During this period, the county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the annual property revaluation grant account created in section 3 of this act.

(5)(a) The real estate and property tax administration assistance account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Beginning January 1, 2014, the county treasurer must continue to collect the additional five-dollar fee in subsection (3) of this section on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall deposit one-half of this fee in the special real estate and property tax administration assistance account in accordance with (c) of this subsection and remit the balance to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer must place money from this fee in the real estate and property tax administration assistance account. By the twentieth day of the subsequent month, the state treasurer must distribute the funds to each county treasurer according to the following formula: One-half of the funds available must be equally distributed among the thirty-nine counties; and the balance must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds must be placed in a special real estate and property tax administration assistance account held by the county treasurer to be used for:

(i) Maintenance and operation of an annual revaluation system for property tax valuation; and

(ii) Maintenance and operation of an electronic processing and reporting system for real estate excise tax affidavits."

Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Condotta; Conway; Ericks; Santos and Springer.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Ranking Minority Member Parker, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5391 Prime Sponsor, Committee on Health & Long-Term Care: Regulating body art, body piercing, and tattooing practitioners, shops, and businesses. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 8, after "needles," strike "single-use disposable sharps, reusable"

On page 2, line 1, after "practice of" strike "physical cosmetic body" and insert "invasive cosmetic"

On page 2, beginning on line 25, after "who" strike "practices the business of tattooing" and insert "pierces or punctures the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin"

On page 2, beginning on line 27, after "means" strike all material through "purposes" on line 30 and insert "to pierce or

puncture the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin"

On page 4, line 2, after "**Sec. 5.**" strike "(1)"

On page 4, beginning on line 7, strike all of subsection (2)

On page 8, beginning on line 27, after "including" strike "single-use disposable sharps, reusable sharps," and insert "sharps"

On page 10, after line 12, insert the following:

"**Sec. 5.** RCW 18.235.020 and 2008 c 119 s 21 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

(xvii) Sellers of travel under chapter 19.138 RCW;

(xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xix) Whitewater river outfitters under chapter 79A.60 RCW; and

(xx) Home inspectors under chapter 18.280 RCW; and

(xxi) Body artists, body piercers, and tattoo artists under chapter 18.-- RCW (the new chapter created in section 24 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board of registration for architects established in chapter 18.08 RCW;

(ii) The cemetery board established in chapter 68.05 RCW;

(iii) The Washington state collection agency board established in chapter 19.16 RCW;

(iv) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(v) The state board of funeral directors and embalmers established in chapter 18.39 RCW;

(vi) The state board of registration for landscape architects established in chapter 18.96 RCW; and

(vii) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority."

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

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

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

Referred to Committee on Ways & Means.

March 27, 2009

ESSB 5403 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Concerning the contractual relationships between distributors and producers of malt beverages. Reported by Committee on Commerce & Labor

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

Passed to Committee on Rules for second reading.

March 27, 2009

SSB 5410 Prime Sponsor, Committee on Early Learning & K-12 Education: Regarding online learning. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.262 and 2005 c 356 s 2 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through digital programs. "Digital programs" means electronically delivered learning that occurs primarily away from the classroom. The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state

funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, a digital program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital learning programs from its staff;

(3) Requiring each school district offering or contracting to offer a digital program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the digital program be provided by certificated instructional staff;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in a digital program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with certificated instructional staff at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide digital learning programs to receive accreditation through the ((~~state accreditation program or through the regional accreditation program~~)) northwest association of accredited schools, or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide digital learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more digital courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**NEW SECTION. Sec. 2.** The office of the superintendent of public instruction shall conduct a review of online courses and programs offered to students during the 2008-09 school year to create a baseline of information about part-time, full-time, and interdistrict student enrollment; how courses and programs are offered and overseen; contract terms and funding arrangements; the fiscal impact on school district levy bases and levy equalization from interdistrict student enrollment; student-to-teacher ratios; course and program completion and success rates; student retention and dropout rates; and how issues such as student assessment, special education, and teacher certification are addressed. The office of the superintendent of public instruction shall submit a report to the education committees of the legislature by December 1, 2009."

Correct the title.

Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Ways & Means.

March 27, 2009

ESSB 5414 Prime Sponsor, Committee on Early Learning & K-12 Education: Regarding statewide assessments and curricula. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The legislature finds that a statewide student assessment system should improve and inform classroom instruction, support accountability, and provide useful information to all levels of the educational system, including students, parents, teachers, schools, school districts, and the state. The legislature intends to redesign the current statewide system, in accordance with the recommendations of the Washington assessment of student learning legislative work group, to:

(a) Include multiple assessment formats, including both formative and summative, as necessary to provide information to help improve instruction and inform accountability;

(b) Enable collection of data that allows both statewide and nationwide comparisons of student learning and achievement; and

(c) Be balanced so that the information used to make significant decisions that affect school accountability or student educational progress includes many data points and does not rely on solely the results of a single assessment.

(2) The legislature further finds that one component of the assessment system should be instructionally supportive formative assessments. The key design elements or characteristics of an instructionally supportive assessment must:

(a) Be aligned to state standards in areas that are being assessed;

(b) Measure student growth and competency at multiple points throughout the year in a manner that allows instructors to monitor student progress and have the necessary trend data with which to improve instruction;

(c) Provide rapid feedback;

(d) Link student growth with instructional elements in order to gauge the effectiveness of educators and curricula;

(e) Provide tests that are appropriate to the skill level of the student;

(f) Support instruction for students of all abilities, including highly capable students and students with learning disabilities;

(g) Be culturally, linguistically, and cognitively relevant, appropriate, and understandable to each student taking the assessment;

(h) Inform parents and draw parents into greater participation of the student's study plan;

(i) Provide a way to analyze the assessment results relative to characteristics of the student such as, but not limited to, English language learners, gender, ethnicity, poverty, age, and disabilities;

(j) Strive to be computer-based and adaptive; and

(k) Engage students in their learning.

(3) The legislature further finds that a second component of the assessment system should be a state-administered summative achievement assessment that can be used as a check on the educational system in order to guide state expectations for the instruction of children and satisfy legislative demands for accountability. The key design elements or characteristics of the state administered achievement assessment must:

(a) Be aligned to state standards in areas that are being assessed;

(b) Maintain and increase academic rigor;

(c) Measure student learning growth over years; and

(d) Strengthen curriculum.

(4) The legislature further finds that a third component of the assessment system should include classroom-based assessments, which may be formative, summative, or both. Depending on their use, classroom-based assessments should have the same design elements and characteristics described in this section for formative and summative assessments.

(5) The legislature further finds that to sustain a strong and viable assessment system, preservice and ongoing training should be provided for teachers and administrators on the effective use of different types of assessments.

(6) The legislature further finds that as the statewide data system is developed, data should be collected for all state-required statewide assessments to be used for accountability and to monitor overall student achievement.

(7) The superintendent of public instruction, in consultation with the state board of education, shall begin design and development of an overall assessment system that meets the principles and characteristics described in this section. In designing formative and summative assessments, the superintendent shall solicit bids for the use of computerized adaptive testing methodologies.

(8) Beginning December 1, 2009, and annually thereafter, the superintendent and state board shall jointly report to the legislature regarding the assessment system, including a cost analysis of any changes and costs to expand availability and use of instructionally supportive formative assessments.

**NEW SECTION. Sec. 2.** The superintendent of public instruction shall:

(1) Revise the number of open-ended questions and extended responses in the statewide achievement assessment in grades three through eight and ten to reduce the cost and time of administering the assessment while retaining validity and reliability of the assessment and retaining assessment of critical thinking skills. By December 1, 2009, the superintendent shall report to the legislature regarding the changes, including a cost analysis of the changes; and

(2) Revisit the alternative assessments, the appeals process, including considering authorizing local school districts to determine the outcome of an appeal by a student to demonstrate that he or she has the level of understanding of a content area assessed on the Washington assessment of student learning necessary to meet the state standard but was unable to demonstrate that understanding on the assessment or an alternative assessment, and the Washington alternative assessment system portfolios for students with the most significant cognitive disabilities. By December 1, 2009, the superintendent shall make recommendations to the legislature for improvements.

**Sec. 3.** RCW 28A.655.066 and 2008 c 163 s 3 are each amended to read as follows:

(1) In consultation with the state board of education, the superintendent of public instruction shall develop statewide end-of-course assessments for high school mathematics that measure student achievement of the state mathematics standards. The superintendent shall take steps to ensure that the language of the assessments is responsive to a diverse student population. The superintendent shall develop end-of-course assessments ((~~in algebra I, geometry, integrated mathematics I, and integrated mathematics II. The superintendent shall make the algebra I and integrated mathematics I end-of-course assessments available to school districts on an optional basis in the 2009-10 school year. The end-of-course assessments in algebra I, geometry, integrated mathematics I, and integrated mathematics II~~)) for the first year of high school mathematics that include the standards common to algebra I and integrated mathematics I and for the second year of high school mathematics that include the standards common to geometry and integrated mathematics II, and the assessments shall be implemented statewide in the 2010-11 school year.

(2) For the graduating ((~~class of 2013~~)) classes of 2013 and 2014 and for purposes of the certificate of academic achievement under RCW 28A.655.061, a student may use: (a) Results from the ((~~algebra I end-of- course assessment plus the geometry end-of-course assessment or results from the integrated mathematics I end-of-course assessment plus the integrated mathematics II end-of-course assessment may be used~~)) end-of-course assessment for the first year of high school mathematics plus the results from the end-of-course assessment for the second year of high school mathematics; or (b) results from the comprehensive mathematics assessment to demonstrate that a student meets the state standard on the mathematics content area of the high school Washington assessment of student learning.

(3) Beginning with the graduating class of ((~~2014~~)) 2015 and for purposes of the certificate of academic achievement under RCW 28A.655.061, the mathematics content area of the Washington assessment of student learning shall be assessed using ((~~either the algebra I end-of-course assessment plus the geometry end-of-course assessment or the integrated mathematics I end-of-course assessment~~

~~plus the integrated mathematics II end-of-course assessment~~)) the end-of-course assessment for the first year of high school mathematics plus the end-of-course assessment for the second year of high school mathematics. All of the objective alternative assessments available to students under RCW 28A.655.061 and 28A.655.065 shall be available to any student who has taken the sequence of end-of-course assessments once but does not meet the state mathematics standard on the sequence of end-of-course assessments.

(4) The superintendent of public instruction shall report at least annually or more often if necessary to keep the education committees of the legislature informed on each step of the development and implementation process under this section.

**NEW SECTION. Sec. 4.** (1) The office of the superintendent of public instruction, in consultation with the state board of education and the professional educator standards board, shall develop an implementation plan and strategies to ensure that all students have the opportunity to learn the new science and mathematics standards. The plan must include the following components:

(a) Strategies to help districts improve their alignment of curriculum and teacher instruction to the new standards;

(b) Identification of effective intervention programs and strategies for struggling students; and

(c) An assessment of the feasibility of implementing the current timelines for students to demonstrate that they have met state mathematics and science standards on the statewide high school assessments.

(2) The office of the superintendent of public instruction, in consultation with the state board of education, shall also recommend whether to use a comprehensive assessment or end-of-course assessments, including the costs for developing and implementing these assessments, for the high school assessment for students to demonstrate that they have achieved proficiency on the state's science standards.

(3) The office of the superintendent of public instruction shall report to the governor and legislature by December 1, 2009, on the implementation plan and the recommended method of assessment for science.

**Sec. 5.** RCW 28A.305.215 and 2008 c 274 s 2 and 2008 c 172 s 2 are each reenacted and amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3), (4), and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4)(a) By February 29, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4).

(b) The state board of education shall direct an expert national consultant in mathematics to:

(i) Analyze the February 2008 version of the revised standards, including a comparison to exemplar standards previously reviewed under this section;

(ii) Recommend specific language and content changes needed to finalize the revised standards; and

(iii) Present findings and recommendations in a draft report to the state board of education.

(c) By May 15, 2008, the state board of education shall review the consultant's draft report, consult the mathematics advisory panel, hold a public hearing to receive comment, and direct any subsequent modifications to the consultant's report. After the modifications are made, the state board of education shall forward the final report and recommendations to the superintendent of public instruction for implementation.

(d) By July 1, 2008, the superintendent of public instruction shall revise the mathematics standards to conform precisely to and incorporate each of the recommendations of the state board of education under ((~~subsection (4)~~))(c) of this ((~~section~~)) subsection and submit the revisions to the state board of education.

(e) By July 31, 2008, the state board of education shall either approve adoption by the superintendent of public instruction of the final revised standards as the essential academic learning requirements and grade level expectations for mathematics, or develop a plan for ensuring that the recommendations under ((~~subsection (4)~~))(c) of this ((~~section~~)) subsection are implemented so that final revised mathematics standards can be adopted by September 25, 2008.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations

unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) Within six months after the standards under subsection (4) of this section are adopted, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By ((~~May 15~~)) June 30, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary((~~,~~)) and middle((~~, and high~~)) school grade spans and not more than three recommendations for each of the major high school courses within the following science domains: Earth and space science, physical science, and life science.

(d) ((~~By June 30, 2009~~)) Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(10) The superintendent of public instruction shall conduct a comprehensive survey of the mathematics curricula being used by school districts at all grade levels and the textbook and curriculum purchasing cycle of the districts and report the results of the survey to the education committees of the legislature by November 15, 2008.

**NEW SECTION. Sec. 6.** Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Education Appropriations.

March 26, 2009

SSB 5431 Prime Sponsor, Committee on Human Services & Corrections: Regarding placement of a child returning to out-of-home care. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

On page 1, line 9, after "child." insert "Pursuant to RCW 13.34.060 and 13.34.130, placement of the child with a relative is the preferred option."

Beginning on page 1, line 14, after "care," strike all material through "and the" on page 2, line 3, and insert "and the department cannot locate an appropriate and available relative, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(a) The foster family home is available and willing to care for the child;

(b) The foster family is appropriate and able to meet the child's needs; and

(c) The"

On page 2, after line 3, insert the following:

"(3) In selecting the placement for a child being returned to foster care, the department shall give weight to the child's length of stay and attachment to the caregivers in the previous placements in determining what is in the best interest of the child.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

(1) To provide stability for children in out-of-home care, placement selection shall be made with a view toward the fewest possible placements for each child. If possible, the initial placement shall be viewed as the only placement for the child. The use of short-term interim placements of thirty days or less to protect the child's health or safety while the placement of choice is being arranged is not a violation of this principle.

(2) If a child has been previously placed in out-of-home care and is subsequently returned to out-of-home care, and the department cannot locate an appropriate and available relative, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(a) The foster family home is available and willing to care for the child;

(b) The foster family is appropriate and able to meet the child's needs; and

(c) The placement is in the best interest of the child.

(3) In selecting the placement for a child being returned to foster care, the court shall give weight to the child's length of stay and attachment to the caregivers in the previous placements in determining what is in the best interest of the child."

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel; Goodman and Seaquist.

Passed to Committee on Rules for second reading.

March 27, 2009

SSB 5434 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Regarding prohibited practices in accountancy. Reported by Committee on Commerce & Labor

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

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5436 Prime Sponsor, Committee on Health & Long-Term Care: Concerning direct patient-provider primary care practice arrangements. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.150.010 and 2007 c 267 s 3 are each amended to read as follows:

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

(1) "Direct patient-provider primary care practice" and "direct practice" means a provider, group, or entity that meets the following criteria in (a), (b), (c), and (d) of this subsection:

(a)(i) A health care provider who furnishes primary care services through a direct agreement;

(ii) A group of health care providers who furnish primary care services through a direct agreement; or

(iii) An entity that sponsors, employs, or is otherwise affiliated with a group of health care providers who furnish only primary care services through a direct agreement, which entity is wholly owned by the group of health care providers or is a nonprofit corporation exempt from taxation under section 501(c)(3) of the internal revenue code, and is not otherwise regulated as a health care service contractor, health maintenance organization, or disability insurer under Title 48 RCW. Such entity is not prohibited from sponsoring, employing, or being otherwise affiliated with other types of health care providers not engaged in a direct practice;

(b) Enters into direct agreements with direct patients or parents or legal guardians of direct patients;

(c) Does not accept payment for health care services provided to direct patients from any entity subject to regulation under Title 48 RCW, plans administered under chapter 41.05, 70.47, or 70.47A RCW, or self-insured plans, except as specifically authorized as a pilot site under section 2, chapter . . . (Substitute Senate Bill No. 5891), Laws of 2009; and

(d) Does not provide, in consideration for the direct fee, services, procedures, or supplies such as prescription drugs, hospitalization costs, major surgery, dialysis, high level radiology (CT, MRI, PET scans or invasive radiology), rehabilitation services, procedures requiring general anesthesia, or similar advanced procedures, services, or supplies.

(2) "Direct patient" means a person who is party to a direct agreement and is entitled to receive primary care services under the direct agreement from the direct practice.

(3) "Direct fee" means a fee charged by a direct practice as consideration for being available to provide and providing primary care services as specified in a direct agreement.

(4) "Direct agreement" means a written agreement entered into between a direct practice and an individual direct patient, or the parent or legal guardian of the direct patient or a family of direct patients, whereby the direct practice charges a direct fee as consideration for being available to provide and providing primary care services to the individual direct patient. A direct agreement must (a) describe the specific health care services the direct practice will provide; and (b) be terminable at will upon written notice by the direct patient.

(5) "Health care provider" or "provider" means a person regulated under Title 18 RCW or chapter 70.127 RCW to practice health or health-related services or otherwise practicing health care services in this state consistent with state law.

(6) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(7) "Primary care" means routine health care services, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury.

(8) "Network" means the group of participating providers and facilities providing health care services to a particular health carrier's health plan or to plans administered under chapter 41.05, 70.47, or 70.47A RCW.

**Sec. 2.** RCW 48.150.040 and 2007 c 267 s 6 are each amended to read as follows:

(1) Direct practices may not:

(a) Enter into a participating provider contract as defined in RCW 48.44.010 or 48.46.020 with any carrier or with any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, to provide health care services through a direct agreement except as set forth in subsection (2) of this section;

(b) Except as provided in RCW 48.150.010(1)(c), submit a claim for payment to any carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, for health care services provided to direct patients as covered by their agreement;

(c) With respect to services provided through a direct agreement, be identified by a carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, as a participant in the carrier's or any carrier's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a carrier's benefit plan; or

(d) Pay for health care services covered by a direct agreement rendered to direct patients by providers other than the providers in the direct practice or their employees, except as described in subsection (2)(b) of this section.

(2) Direct practices and providers may:

(a) Enter into a participating provider contract as defined by RCW 48.44.010 and 48.46.020 or plans administered under chapter 41.05, 70.47, or 70.47A RCW for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such providers shall be subject to all other provisions of the participating provider contract applicable to participating providers including but not limited to the right to:

(i) Make referrals to other participating providers;

(ii) Admit the carrier's members to participating hospitals and other health care facilities;

(iii) Prescribe prescription drugs; and

(iv) Implement other customary provisions of the contract not dealing with reimbursement of services;

(b) Pay for charges associated with the provision of routine lab and imaging services ((~~provided in connection with wellness physical examinations~~)). In aggregate such payments per year per direct patient are not to exceed fifteen percent of the total annual direct fee charged that direct patient. Exceptions to this limitation may occur in the event of short-term equipment failure if such failure prevents the provision of care that should not be delayed; and

(c) Charge an additional fee to direct patients for supplies, medications, and specific vaccines provided to direct patients that are specifically excluded under the agreement, provided the direct practice notifies the direct patient of the additional charge, prior to their administration or delivery.

**Sec. 3.** RCW 70.47.060 and 2007 c 259 s 36 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

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

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

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

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

(e) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

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

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

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

(5) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized, nonsubsidized,

and health coverage tax credit eligible enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

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

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

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

(9) Except to the extent to be designated as a medical home pilot site as provided in section 2, chapter . . . (Substitute Senate Bill No. 5891), Laws of 2009, to solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

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

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

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

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

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

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

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

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

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

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

(20) To give priority in enrollment to persons who disenrolled from the program in order to enroll in medicaid, and subsequently became ineligible for medicaid coverage.

**NEW SECTION. Sec. 4.** The insurance commissioner shall work with health maintenance organizations under chapter 48.46 RCW to determine how they can operate as a direct practice as defined in RCW 48.150.010. Recommendations for any necessary statutory changes must be submitted to the legislature by December 1, 2009."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5453 Prime Sponsor, Senator Kastama: Defining "principal residence" for the purpose of relocation of a child. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 2, after line 1, insert the following:

"**Sec.** 2. RCW 26.09.520 and 2000 c 21 s 14 are each amended to read as follows:

(1) The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. Except as provided in subsection (2) of this section, there is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(((~~(1)~~))) (a) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(((~~(2)~~))) (b) Prior agreements of the parties;

(((~~(3)~~))) (c) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(((~~(4)~~))) (d) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(((~~(5)~~))) (e) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(((~~(6)~~))) (f) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(((~~(7)~~))) (g) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(((~~(8)~~))) (h) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(((~~(9)~~))) (i) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(((~~(10)~~))) (j) The financial impact and logistics of the relocation or its prevention; and

(((~~(11)~~))) (k) For a temporary order, the amount of time before a final decision can be made at trial.

(2) The rebuttable presumption under subsection (1) of this section does not apply when the child, under a court order, has substantially equal residential time with the person proposing to relocate the child and another person entitled to residential time with the child."

Correct the title.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5468 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Permitting an exemption for nonprofit housing organizations from the consumer loan act. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 31.04.025 and 2008 c 78 s 1 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter 63.14 RCW.

(2) This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan.

(3) This chapter does not apply to nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents."

Correct the title.

Signed by Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst; McCoy; Nelson; Roach; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 24, 2009

SSB 5469 Prime Sponsor, Committee on Transportation: Modifying limitations on the use of intermediate licenses. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Herrera; Johnson; Klippert; Kristiansen; Moeller; Morris; Rolfes; Sells; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

ESSB 5473 Prime Sponsor, Committee on Economic Development, Trade & Innovation: Expediting completion of projects of statewide significance. (REVISED FOR ENGROSSED: Designating projects of statewide significance. ) Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 43.157.005 and 1997 c 369 s 1 are each amended to read as follows:

The legislature declares that certain ((~~industrial~~)) investments, such as investments for industrial development, environmental improvement, and innovation activities, merit special designation and treatment by governmental bodies when they are proposed. Such investments bolster the economies of their locale and impact the economy of the state as a whole. It is the intention of the legislature to recognize ((~~industrial~~)) projects of statewide significance and to encourage local governments and state agencies to expedite their completion.

**Sec. 2.** RCW 43.157.010 and 2004 c 275 s 63 are each amended to read as follows:

((~~(1)~~)) For purposes of this chapter and RCW 28A.525.166, 28B.76.210, 28C.18.080, 43.21A.350, ((~~47.06.030,~~)) and 90.58.100 ((~~and an industrial~~)), unless the context requires otherwise:

(1)(a) A project of statewide significance is:

(i) A border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces;

(ii) A development project that will provide a net environmental benefit;

(iii) A development project in furtherance of the commercialization of innovations; or

(iv) A private industrial development with private capital investment in manufacturing or research and development.

(b) To qualify for designation under RCW 43.157.030 as ((~~an industrial~~)) a project of statewide significance: ((~~(a)~~))

(i) The project must be completed after January 1, ((~~1997~~)) 2009; ((~~(b)~~))

(ii) The applicant must submit an application to the department for designation as ((~~an industrial~~)) a project of statewide significance to the department of community, trade, and economic development; and ((~~(c)~~))

(iii) The project must have:

((~~(i)~~)) (A) In counties with a population ((~~of~~)) less than or equal to twenty thousand, a capital investment of ((~~twenty~~)) five million dollars;

((~~(ii)~~)) (B) In counties with a population ((~~of~~)) greater than twenty thousand but no more than fifty thousand, a capital investment of ((~~fifty~~)) ten million dollars;

((~~(iii)~~)) (C) In counties with a population ((~~of~~)) greater than fifty thousand but no more than one hundred thousand, a capital investment of ((~~one hundred~~)) fifteen million dollars;

((~~(iv)~~)) (D) In counties with a population ((~~of~~)) greater than one hundred thousand but no more than two hundred thousand, a capital investment of ((~~two hundred~~)) twenty million dollars;

((~~(v)~~)) (E) In counties with a population ((~~of~~)) greater than two hundred thousand but no more than four hundred thousand, a capital investment of ((~~four hundred~~)) thirty million dollars;

((~~(vi)~~)) (F) In counties with a population ((~~of~~)) greater than four hundred thousand but no more than one million, a capital investment of ((~~six hundred~~)) forty million dollars;

((~~(vii)~~)) (G) In counties with a population ((~~of~~)) greater than one million, a capital investment of ((~~one billion~~)) fifty million dollars;

((~~(viii)~~)) (H) In rural counties ((~~with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th~~)) as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of fifty or greater;

((~~(ix)~~)) (I) In counties ((~~with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th~~)) other than rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of one hundred or greater; or

((~~(x)~~)) (J) Been ((~~designated~~)) qualified by the director of ((~~community, trade, and economic development~~)) the department as ((~~an industrial~~)) a project of statewide significance either because: ((~~(A) Because the county in which the project is to be located is a distressed county and~~))

(I) The economic circumstances of the county merit the additional assistance such designation will bring; ((~~or (B) because~~))

(II) The impact on a region due to the size and complexity of the project merits such designation;

(III) The project resulted from or is in furtherance of innovation activities at a public research institution in the state or is in or resulted from innovation activities within an innovation partnership zone; or

(IV) The project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

A project may be qualified under this subsection (1)(b)(iii)(J) only after consultation on the availability of staff resources of the office of regulatory assistance.

(2) ((~~The term~~)) "Department" means the department of community, trade, and economic development.

(3) "Manufacturing" shall have the meaning assigned it in RCW ((~~82.61.010~~)) 82.62.010.

(((~~(3) The term~~)) (4) "Research and development" shall have the meaning assigned it in RCW ((~~82.61.010~~)) 82.62.010.

(((~~(4) The term~~)) (5) "Applicant" means a person applying to the department ((~~of community, trade, and economic development~~)) for designation of a development project as ((~~an industrial~~)) a project of statewide significance.

**Sec. 3.** RCW 43.157.020 and 2003 c 54 s 2 are each amended to read as follows:

Counties and cities with development projects designated as ((~~industrial~~)) projects of statewide significance within their jurisdictions shall enter into an agreement with the office of ((~~permit~~)) regulatory assistance and the project managers of ((~~industrial~~)) projects of statewide significance for expediting the completion of ((~~industrial~~)) projects of statewide significance. The agreement shall require:

(1) Expedited permit processing for the design and construction of the project;

(2) Expedited environmental review processing;

(3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project; ((~~and~~))

(4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(2)(b); and

(5) Such other actions or items as are deemed necessary by the office of ((~~permit~~)) regulatory assistance for the design and construction of the project.

**Sec. 4.** RCW 43.157.030 and 2003 c 54 s 3 are each amended to read as follows:

(1) The department of community, trade, and economic development shall:

(a) Develop an application for designation of development projects as ((~~industrial~~)) projects of statewide significance. The application must be accompanied by a letter of approval from the legislative authority of any jurisdiction that will have the proposed ((~~industrial~~)) project of statewide significance within its boundaries. No designation of a project as ((~~an industrial~~)) a project of statewide significance shall be made without such letter of approval. The letter of approval must state that the jurisdiction joins in the request for the designation of the project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of ((~~an industrial~~)) a project of statewide significance. The development project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application shall contain information regarding the location of the project, the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, estimated time schedules for completion and operation, and other information required by the department; and

(b) ((~~Certify that~~)) Designate a development project as a project of statewide significance if the department determines:

(i) After review of the application under criteria adopted by rule, the development project will provide significant economic benefit to the local or state economy, or both, the project is aligned with the state's comprehensive plan for economic development under RCW 43.162.020, and, by its designation, the project will not prevent equal consideration of all categories of proposals under RCW 43.157.010; and

(ii) The development project meets or will meet the requirements of RCW 43.157.010 regarding designation as ((~~an industrial~~)) a project of statewide significance.

(2) The office of ((~~permit~~)) regulatory assistance shall assign a project facilitator or coordinator to each ((~~industrial~~)) project of statewide significance to:

(a) Assist in the scoping and coordinating functions provided for in chapter 43.42 RCW;

(b) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project, which team shall include those responsible for planning, permitting and licensing, infrastructure development, workforce development services including higher education, transportation services, and the provision of utilities; and

(c) Work with each team member to expedite their actions in furtherance of the project.

**Sec. 5.** RCW 28A.525.166 and 2006 c 263 s 311 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.525.162 through 28A.525.180 shall be made by the superintendent of public instruction and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the superintendent.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Ratio} = 0 - \frac{\text{District adjusted 3-valuation per pupil} \div \text{Total state adjusted valuation per pupil}}{\text{District adjusted 3 +valuation per pupil} \div \text{Total state adjusted valuation per pupil}} = \text{State \% Assistance}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.162 through 28A.525.180, the superintendent may establish for such district a percentage of state

assistance not in excess of twenty percent of the approved cost of the project, if the superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in subsection (2) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner prescribed in this section multiplied by the percentage of state assistance derived as provided for in this section shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the superintendent: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from ((~~industrial~~)) projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) of this subsection, creating a like emergency.

**Sec. 6.** RCW 28C.18.080 and 1997 c 369 s 5 are each amended to read as follows:

(1) The state comprehensive plan for workforce training and education shall be updated every two years and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's workforce training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include workforce training role and mission statements for the workforce development programs of operating agencies represented on the board and sufficient specificity regarding expected actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their workforce development efforts that are consistent with the comprehensive plan and that provide detail on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of workforce training and education programs in the state.

(5) The comprehensive plan shall address how the state's workforce development system will meet the needs of employers hiring for ((~~industrial~~)) projects of statewide significance.

(6) The board shall report to the appropriate legislative policy committees by December 1 of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan.

**Sec. 7.** RCW 43.21A.350 and 1997 c 369 s 6 are each amended to read as follows:

The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the completion of ((~~industrial~~)) projects of statewide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan.

**Sec. 8.** RCW 43.42.060 and 2007 c 94 s 7 are each amended to read as follows:

(1) The office may coordinate the processing by participating permit agencies of permits required for a project, at the request of the project proponent through a cost-reimbursement agreement as provided in subsection (3) of this section or with the agreement of the project proponent as provided in subsection (4) of this section.

(2) The office shall assign a project coordinator to perform any or all of the following functions, as specified by the terms of a cost-reimbursement agreement under subsection (3) of this section or an agreement under subsection (4) of this section:

(a) Serve as the main point of contact for the project proponent;

(b) Conduct a project scoping as provided in RCW 43.42.050(2);

(c) Verify that the project proponent has all the information needed to complete applications;

(d) Coordinate the permit processes of the permit agencies;

(e) Manage the applicable administrative procedures;

(f) Work to assure that timely permit decisions are made by the permit agencies and maintain contact with the project proponent and the permit agencies to ensure adherence to schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions; and

(h) Coordinate with relevant federal permit agencies and tribal governments to the extent possible.

(3) At the request of a project proponent and as provided in RCW 43.42.070, the project coordinator shall coordinate negotiations among the project proponent, the office, and participating permit agencies to enter into a cost-reimbursement agreement and shall

coordinate implementation of the agreement, which shall govern coordination of permit processing by the participating permit agencies.

(4) For ((~~industrial~~)) projects of statewide significance or if the office determines that it is in the public interest to coordinate the processing of permits for certain projects that are complex in scope, require multiple permits, involve multiple jurisdictions, or involve a significant number of affected parties, the office shall, upon the proponent's request, enter into an agreement with the project proponent and the participating permit agencies to coordinate the processing of permits for the project. The office may limit the number of such agreements according to the resources available to the office and the permit agencies at the time.

**Sec. 9.** RCW 90.58.100 and 1997 c 369 s 7 are each amended to read as follows:

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, ((~~industrial~~)) projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

**Sec. 10.** RCW 43.131.402 and 2007 c 231 s 7 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 43.42.005 and 2003 c 71 s 1 & 2002 c 153 s 1;

(2) RCW 43.42.010 and 2007 c 231 s 5, 2003 c 71 s 2, & 2002 c 153 § 2;

(3) RCW 43.42.020 and 2002 c 153 s 3;

(4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;

(5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;

(6) RCW 43.42.050 and 2002 c 153 s 6;

(7) RCW 43.42.060 and 2009 c . . . s 8 (section 8 of this act) & 2002 c 153 s 7;

(8) RCW 43.42.070 and 2002 c 153 s 8;

(9) RCW 43.42.905 and 2002 c 153 s 10;

(10) RCW 43.42.900 and 2002 c 153 s 11; and

(11) RCW 43.42.901 and 2002 c 153 s 12.

**NEW SECTION. Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Chase; Liias; Orcutt; Parker; Probst and Sullivan.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5480 Prime Sponsor, Committee on Health & Long-Term Care: Creating the Washington health care discount plan organization act. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

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

Referred to Committee on General Government Appropriations.

March 24, 2009

SSB 5499 Prime Sponsor, Committee on Transportation: Concerning bond amounts for department of transportation highway contracts. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Herrera; Johnson; Klippert; Kristiansen; Moeller; Morris; Rolfes; Sells; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5501 Prime Sponsor, Committee on Ways & Means: Concerning the secure exchange of health information. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) The inability to securely share critical health information between practitioners inhibits the delivery of safe, efficient care, as evidenced by:

(a) Adverse drug events that result in an average of seven hundred seventy thousand injuries and deaths each year; and

(b) Duplicative services that add to costs and jeopardize patient well-being;

(2) Consumers are unable to act as fully informed participants in their care unless they have ready access to their own health information;

(3) The blue ribbon commission on health care costs and access found that the development of a system to provide electronic access to patient information anywhere in the state was a key to improving health care; and

(4) In 2005, the legislature established a health information infrastructure advisory board to develop a strategy for the adoption and use of health information technologies that are consistent with emerging national standards and promote interoperability of health information systems.

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

The definitions in this section apply throughout sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the state health care authority under this chapter.

(2) "Exchange" means the methods or medium by which health care information may be electronically and securely exchanged among authorized providers, payors, and patients within Washington state.

(3) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005.

(4) "Health data provider" means an organization that is a primary source for health-related data for Washington residents, including but not limited to:

(a) The children's health immunizations linkages and development profile immunization registry provided by the department of health pursuant to chapter 43.70 RCW;

(b) Commercial laboratories providing medical laboratory testing results;

(c) Prescription drugs clearinghouses, such as the national patient health information network; and

(d) Diagnostic imaging centers.

(5) "Lead organization" means a private sector organization or organizations designated by the administrator to lead development of processes, guidelines, and standards under this act.

(6) "Payor" means public purchasers, as defined in this section, carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62 RCW, and the Washington state health insurance pool established in chapter 48.41 RCW.

(7) "Public purchaser" means the department of social and health services, the department of labor and industries, and the health care authority.

(8) "Secretary" means the secretary of the department of health.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

(1) By August 1, 2009, the administrator shall designate one or more lead organizations to coordinate development of processes, guidelines, and standards to:

(a) Improve patient access to and control of their own health care information and thereby enable their active participation in their own care; and

(b) Implement methods for the secure exchange of clinical data as a means to promote:

(i) Continuity of care;

(ii) Quality of care;

(iii) Patient safety; and

(iv) Efficiency in medical practices.

(2) The lead organization designated by the administrator under this section shall:

(a) Be representative of health care privacy advocates, providers, and payors across the state;

(b) Have expertise and knowledge in the major disciplines related to the secure exchange of health data;

(c) Be able to support the costs of its work without recourse to state funding. The administrator and the lead organization are authorized and encouraged to seek federal funds, including funds

from the federal American recovery and reinvestment act, as well as solicit, receive, contract for, collect, and hold grants, donations, and gifts to support the implementation of this section and section 4 of this act;

(d) In collaboration with the administrator, identify and convene work groups, as needed, to accomplish the goals of this section and section 4 of this act;

(e) Conduct outreach and communication efforts to maximize the adoption of the guidelines, standards, and processes developed by the lead organization;

(f) Submit regular updates to the administrator on the progress implementing the requirements of this section and section 4 of this act; and

(g) With the administrator, report to the legislature December 1, 2009, and on December 1st of each year through December 1, 2012, on progress made, the time necessary for completing tasks, and identification of future tasks that should be prioritized for the next improvement cycle.

(3) Within available funds as specified in subsection (2)(c) of this section, the administrator shall:

(a) Participate in and review the work and progress of the lead organization, including the establishment and operation of work groups for this section and section 4 of this act; and

(b) Consult with the office of the attorney general to determine whether:

(i) An antitrust safe harbor is necessary to enable licensed carriers and providers to develop common rules and standards; and, if necessary, take steps, such as implementing rules or requesting legislation, to establish a safe harbor; and

(ii) Legislation is needed to limit provider liability if their health records are missing health information despite their participation in the exchange of health information.

(4) The lead organization or organizations shall take steps to minimize the costs that implementation of the processes, guidelines, and standards may have on participating entities, including providers.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.05 RCW to read as follows:

By December 1, 2011, the lead organization shall, consistent with the federal health insurance portability and accountability act, develop processes, guidelines, and standards that address:

(1) Identification and prioritization of high value health data from health data providers. High value health data include:

(a) Prescriptions;

(b) Immunization records;

(c) Laboratory results;

(d) Allergies; and

(e) Diagnostic imaging;

(2) Processes to request, submit, and receive data;

(3) Data security, including:

(a) Storage, access, encryption, and password protection;

(b) Secure methods for accepting and responding to requests for data;

(c) Handling unauthorized access to or disclosure of individually identifiable patient health information, including penalties for unauthorized disclosure; and

(d) Authentication of individuals, including patients and providers, when requesting access to health information, and maintenance of a permanent audit trail of such requests, including:

(i) Identification of the party making the request;

(ii) The data elements reported; and

(iii) Transaction dates;

(4) Materials written in plain language that explain the exchange of health information and how patients can effectively manage such information, including the use of online tools for that purpose;

(5) Materials for health care providers that explain the exchange of health information and the secure management of such information.

**NEW SECTION. Sec. 5.** A new section is added to chapter 41.05 RCW to read as follows:

If any provision in sections 2 through 4 of this act conflicts with existing or new federal requirements, the administrator shall recommend modifications, as needed, to assure compliance with the aims of sections 2 through 4 of this act and federal requirements.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.05 RCW to read as follows:

Within available funds as specified in section 3(2)(c) of this act, by December 1, 2009, and annually thereafter, the administrator shall report to the legislature on the implementation of the requirements of sections 2 through 4 of this act, including:

(1) An assessment of the benefits and any drawbacks resulting from the implementation of the exchanges; and

(2) Recommendations for legislation to help further the goals of sections 2 through 4 of this act.

**NEW SECTION. Sec. 7.** Within available funds as specified in section 3(2)(c) of this act, by July 1, 2011, the office of financial management shall contract with an independent research organization to evaluate implementation of sections 3 and 4 of this act. The evaluation must include recommendations for program changes to better meet the goals of this act."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Hinkle; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey and Herrera.

Referred to Committee on Health & Human Services Appropriations.

March 26, 2009

SSB 5510 Prime Sponsor, Committee on Human Services & Corrections: Regarding notification in dependency matters. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that when children have been found dependent and placed in out-of-home care, the likelihood of reunification with their parents diminishes significantly after fifteen months. The legislature also finds that early and consistent parental engagement in services and participation in appropriate parent-child contact and visitation increases the likelihood of successful reunifications. The legislature intends to promote greater awareness among parents in dependency cases of the importance of active participation in services, visitation, and case planning for the child, and the risks created by failure to participate in their child's case over the long term.

**Sec. 2.** RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are each reenacted and amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present.

6. If your child is placed in the custody of the department of social and health services or other supervising agency, immediately following the shelter care hearing, the court will enter an order granting the department or other supervising agency the right to inspect and copy all health, medical, mental health, and education records of the child, directing health care providers to release such information without your further consent, and granting the department or supervising agency or its designee the authority and responsibility, where applicable, to:

(1) Notify the child's school that the child is in out-of-home placement;

(2) Enroll the child in school;

(3) Request the school transfer records;

(4) Request and authorize evaluation of special needs;

(5) Attend parent or teacher conferences;

(6) Excuse absences;

(7) Grant permission for extracurricular activities;

(8) Authorize medications which need to be administered during school hours and sign for medical needs that arise during school hours; and

(9) Complete or update school emergency records.

7. If the court decides to place your child in the custody of the department of social and health services or other supervising agency, the department or agency will create a permanency plan for your child, including a primary placement goal and secondary placement goal. The department or agency also will recommend that the court order services for your child and for you, if needed. The department or agency is required to make reasonable efforts to provide you with services to address your parenting problems, and to provide you with visitation with your child according to court orders. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your parental rights.

8. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Absent good cause, and when appropriate, the department or other supervising agency must follow the wishes of a natural parent regarding placement of a child. You should tell your lawyer and the court where you wish your child placed immediately, including whether you want your child placed with you, with a relative, or with another suitable person. You also should tell your lawyer and the court what services you feel are necessary and your wishes regarding visitation with your child. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department or other supervising agency, and the court if you want to be a secondary placement option, and you should comply with court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

9. A dependency petition begins a judicial process, which, if the court finds your child dependent, could result in substantial restrictions including, the entry or modification of a parenting plan or residential schedule, nonparental custody order or decree, guardianship order, or permanent loss of your parental rights."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal

custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or ((~~legal~~)) custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.34 RCW to read as follows:

(1) After entry of a dispositional order pursuant to RCW 13.34.130 ordering placement of a child in out-of-home care, the department shall continue to encourage the parent, guardian, or custodian of the child to engage in services and maintain contact with the child, which shall be accomplished by attaching a standard notice to the services and safety plan to be provided in advance of hearings conducted pursuant to RCW 13.34.138.

(2) The notice shall be photocopied on contrasting paper to distinguish it from the services and safety plan to which it is attached, and shall be in substantially the following form:

"NOTICE

If you have not been maintaining consistent contact with your child in out-of-home care, your ability to reunify with your child may be jeopardized. If this is your situation, you need to be aware that you have important legal rights and must take steps to protect your interests.

1. The department of social and health services (or other supervising agency) and the court have created a permanency plan for your child, including a primary placement plan and a secondary placement plan, and recommending services needed before your child can be placed in the primary or secondary placement. If you want the court to order that your child be reunified with you, you should notify your lawyer and the department, and you should carefully comply with court orders for services and participate regularly in visitation with your child. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your rights as a parent.

2. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department, and the court if you want to be the secondary placement option, and you should comply with any court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

3. Dependency review hearings, and all other dependency case hearings, are legal proceedings with potentially serious consequences. Failure to participate, respond, or comply with court orders may lead to the loss of your parental rights."

**Sec. 4.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the

parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 5.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall enter one of the following orders for a child. The court shall utilize a developmentally appropriate child-centered perspective to consider the child's history and attachment status, how separation from primary caregivers has affected the child, and how an additional

separation and change in placement may affect the child's attachment system or create a risk of psychological harm with potentially lifelong consequences:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 6.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (2) or (3) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

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

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; ((~~or~~))

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; or

(iii) Failure of the parent to have contact with the child for an extended period of time after the filing of the dependency petition if the parent was provided an opportunity to have a relationship with the child by the department or the court and received documented notice of the potential consequences of this failure, except that the actual inability of a parent to have visitation with the child due to mitigating circumstances including, but not limited to, a parent's incarceration or service in the military does not in and of itself constitute failure to have contact with the child; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

(2) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(3) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(4) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure) .

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number) .""

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel; Goodman and Seaquist.

Passed to Committee on Rules for second reading.

March 25, 2009

ESSB 5513 Prime Sponsor, Committee on Transportation: Concerning law enforcement authority that relates to civil infractions and unlawful transit conduct. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.80.090 and 1987 c 456 s 17 are each amended to read as follows:

(1) Procedures for the conduct of all hearings provided in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, ((~~or~~)) town, or transit agency authorized to issue civil infractions may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

**Sec. 2.** RCW 7.80.010 and 1987 c 456 s 9 are each amended to read as follows:

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance or by local law or resolution of a transit agency authorized to issue civil infractions, and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance.

**Sec. 3.** RCW 9.91.025 and 2004 c 118 s 1 are each amended to read as follows:

(1) A person is guilty of unlawful ((~~bus~~)) transit conduct if, while on or in a ((~~municipal~~)) transit vehicle ((~~as defined by RCW 46.04.355~~)) or in or at a ((~~municipal~~)) transit station ((~~and with knowledge that the conduct is prohibited~~)), he or she knowingly:

(a) ((~~Except while in or at a municipal transit station,~~)) Smokes or carries a lighted or smoldering pipe, cigar, or cigarette, unless he or she is smoking in an area designated and authorized by the transit authority;

(b) Discards litter other than in designated receptacles;

(c) Dumps or discards, or both, any materials on or at a transit facility including, but not limited to, hazardous substances and automotive fluids;

(d) Plays any radio, recorder, or other sound-producing equipment, except that nothing herein prohibits the use of the equipment when connected to earphones or an ear receiver that limits the sound to an individual listener((~~s or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle or municipal transit station~~)). The use of public address systems or music systems that are authorized by a transit agency is permitted. The use of communications devices by transit employees and designated contractors or public safety officers in the line of duty is permitted, as is the use of private communications devices used to summon, notify, or communicate with other individuals, such as pagers and cellular phones;

(((~~d~~))) (e) Spits ((~~or~~)), expectorates, urinates, or defecates, except in appropriate plumbing fixtures in restroom facilities;

(((~~e~~))) (f) Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others, except that nothing herein prevents a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law;

(((~~(f) Intentionally~~)) (g) Consumes an alcoholic beverage or is in possession of an open alcoholic beverage container, unless authorized by the transit authority and required permits have been obtained;

(h) Obstructs or impedes the flow of ((~~municipal~~)) transit vehicles or passenger traffic, hinders or prevents access to ((~~municipal~~)) transit vehicles or stations, or otherwise unlawfully interferes with the provision or use of public transportation services;

(((~~(g) Intentionally~~)) (i) Unreasonably disturbs others by engaging in loud, raucous, unruly, harmful, or harassing behavior; ((~~or (h)~~)) (j) Destroys, defaces, or otherwise damages property ((~~of a municipality as defined in RCW 35.58.272 or a regional transit authority authorized by chapter 81.112 RCW employed in the provision or use of public transportation services~~)) in a transit vehicle or at a transit facility;

(k) Throws an object in a transit vehicle, at a transit facility, or at any person at a transit facility with intent to do harm;

(l) Possesses an unissued transfer or fare media or tenders an unissued transfer or fare media as proof of fare payment;

(m) Falsely claims to be a transit operator or other transit employee or through words, actions, or the use of clothes, insignia, or equipment resembling department-issued uniforms and equipment, creates a false impression that he or she is a transit operator or other transit employee;

(n) Engages in gambling or any game of chance for the winning of money or anything of value;

(o) Skates on roller skates or in-line skates, or rides in or upon or by any means a coaster, skateboard, toy vehicle, or any similar device. However, a person may walk while wearing skates or carry a skateboard while on or in a transit vehicle or in or at a transit station if that conduct is not otherwise prohibited by law; or

(p) Engages in other conduct that is inconsistent with the intended use and purpose of the transit facility, transit station, or transit vehicle and refuses to obey the lawful commands of an agent of the transit authority or a peace officer to cease such conduct.

(2) For the purposes of this section((~~, "municipal~~)):

(a) "Transit station" or "transit facility" means all passenger facilities, structures, ((~~lands, interest in lands, air rights over lands~~)) stops, shelters, bus zones, properties, and rights-of-way of all kinds that are owned, leased, held, or used by a ((~~municipality as defined in RCW 35.58.272, or a regional transit authority authorized by chapter 81.112 RCW~~)) transit authority for the purpose of providing public transportation services((~~, including, but not limited to, park and ride lots, transit centers and tunnels, and bus shelters.~~

~~(3) Unlawful bus conduct is a misdemeanor~~)).

(b) "Transit vehicle" means any motor vehicle, street car, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers on a regular schedule.

(c) "Transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transportation authority under chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

(3) Any person who violates this section is guilty of a misdemeanor.

**Sec. 4.** RCW 81.112.020 and 1999 c 20 s 2 are each amended to read as follows:

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

(1) "Authority" means a regional transit authority authorized under this chapter.

(2) "Board" means the board of a regional transit authority.

(3) "Service area" or "area" means the area included within the boundaries of a regional transit authority.

(4) "System" means a regional transit system authorized under this chapter and under the jurisdiction of a regional transit authority.

(5) "Facilities" means any lands, interest in land, air rights over lands, and improvements thereto including vessel terminals, and any equipment, vehicles, vessels, trains, stations, designated passenger waiting areas, and other components necessary to support the system.

(6) "Proof of payment" means evidence of fare prepayment authorized by a regional transit authority for the use of ((~~trains, including but not limited to commuter trains and light rail trains~~)) its facilities.

**Sec. 5.** RCW 81.112.210 and 1999 c 20 s 3 are each amended to read as follows:

(1) An authority is authorized to establish, by resolution, a schedule of fines and penalties for civil infractions established in RCW 81.112.220. Fines established by a regional transit authority shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) A regional transit authority may designate persons to monitor fare payment who are equivalent to and are authorized to exercise all the powers of an enforcement officer, defined in RCW 7.80.040. An authority is authorized to employ personnel to either monitor fare payment, or to contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment also have the authority to take the following actions:

(i) Request proof of payment from passengers;

(ii) Request personal identification from a passenger who does not produce proof of payment when requested;

(iii) Issue a citation conforming to the requirements established in RCW 7.80.070; and

(iv) Request that a passenger leave the regional transit authority ((~~train, including but not limited to commuter trains and light rail trains,~~)) facility when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) Regional transit authorities shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by chapter 20, Laws of 1999 shall be heard and determined by a district or municipal court as provided in RCW 7.80.010 (1), (2), and (4).

**Sec. 6.** RCW 81.112.220 and 1999 c 20 s 4 are each amended to read as follows:

(1) Persons traveling on ((~~trains, including but not limited to commuter trains or light rail trains,~~)) facilities operated by an authority((~~,~~)) shall pay the fare established by the authority. Such persons shall produce proof of payment when requested by a person designated to monitor fare payment.

(2) The following constitute civil infractions punishable according to the schedule of fines and penalties established by the authority under RCW 81.112.210(1):

(a) Failure to pay the required fare;

(b) Failure to display proof of payment when requested to do so by a person designated to monitor fare payment; and

(c) Failure to depart the ((~~train, including but not limited to commuter trains and light rail trains,~~)) facility when requested to do so by a person designated to monitor fare payment.

**Sec. 7.** RCW 81.112.230 and 2006 c 270 s 12 are each amended to read as follows:

Nothing in RCW 81.112.020 and 81.112.210 through 81.112.230 shall be deemed to prevent law enforcement authorities from prosecuting for theft, trespass, or other charges by any individual who:

(1) Fails to pay the required fare on more than one occasion within a twelve-month period;

(2) Fails to timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options; or

(3) Fails to depart the ((~~train, including but not limited to commuter trains and light rail trains,~~)) facility when requested to do so by a person designated to monitor fare payment.

**NEW SECTION. Sec. 8.** A new section is added to chapter 81.112 RCW to read as follows:

The powers and authority conferred by RCW 81.112.210 through 81.112.230 are in addition and supplemental to powers or authority conferred by any other law. RCW 81.112.210 through 81.112.230 do not limit any other powers or authority of a regional transit authority.

**NEW SECTION. Sec. 9.** 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."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

ESB 5519 Prime Sponsor, Senator Hargrove: Reforming competency evaluation and restoration procedures. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**PART I**
**COMPETENCY EVALUATION AND RESTORATION**

**NEW SECTION. Sec. 1.** (1)(a) Whenever there is reason to doubt a defendant's competency, the court on its own motion or on the motion of any party shall request the secretary of the department of social and health services to designate a qualified expert or professional person to evaluate the competency of the defendant. The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relates to the present or past mental, emotional, or physical condition of the defendant.

(b) If the defendant is being held in a jail or detention facility, the court shall order the evaluation to take place in the jail or detention facility. The order shall state that the defendant may be transported to a state hospital or other secure mental health facility at the request of the evaluator, if the evaluator determines that such action is necessary in order to complete an accurate evaluation of the defendant. This request shall be provided in writing to the jail or detention facility, court, and representatives of both parties, and the reason for the request shall be documented in the evaluation report. No further order of the court shall be necessary to effectuate transportation of the defendant under this subsection. If the defendant exhibits behavior indicative of severe decompensation and the evaluator has not, within three days of the court's order, made a decision regarding the location of the competency evaluation, any party may file a motion with the court seeking an order to have the defendant evaluated at a secure mental health facility.

(c) The prosecutor shall send a copy of the order for evaluation to the secretary of the department of social and health services and a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. These documents shall be provided as soon as possible, and no later than three business days after the order is signed. The court or either party may provide additional information to the secretary of the department of social and health services which it reasonably deems to be of assistance to the evaluation, unless such action would infringe upon ethical duties.

(d) The report of an evaluation of a defendant who is being held in custody at a jail or detention facility shall be completed within twenty-one days from the time of receipt by the secretary of the department of social and health services of the documents specified in (c) of this subsection, unless transportation of the defendant to a hospital or secure mental health facility is necessary under (b) of this subsection, in which case the secretary of the department of social and health services shall authorize transportation of the defendant as soon as possible, and within seven days of the request. A defendant transported under (b) of this subsection may be admitted to a hospital or secure mental health facility for only the length of time necessary to complete an evaluation, and for no longer than fifteen days.

(e) If at any point the evaluator becomes aware that the defendant may have a developmental disability, or if it appears that the characteristics of developmental disability may be a significant factor in the defendant's ability to participate in the criminal proceeding, the evaluation shall be performed by or in consultation with a developmental disabilities professional.

(f) For good cause, the court may extend the time period for completion of an evaluation.

(g) Upon agreement by the parties, the court may appoint a qualified expert or professional person to evaluate the competency of the defendant instead of requesting the secretary of the department of social and health services to designate an evaluator. Only an evaluator designated by the secretary of the department of social and health services may request that the defendant be transported to a state hospital for evaluation under (b) of this subsection.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the evaluator. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis of the mental condition of the defendant;

(c) An opinion as to competency;

(d) An opinion as to whether the defendant should be evaluated by a designated mental health professional under chapter 71.05 RCW.

(4) The secretary of the department of social and health services may execute such agreements as appropriate and necessary to implement this section.

**NEW SECTION. Sec. 2.** (1)(a)(i) An evaluator appointed under RCW 10.77.060 or an expert or professional person appointed under section 106 of this act shall provide a report and recommendation to the court in which the criminal proceeding is pending. A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(ii) of this subsection. Upon request, the secretary of the department of social and health services shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional. The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.

(ii) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

(iii) When a defendant is transferred to a hospital or other secure facility for an evaluation, or upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator or the facility conducting the evaluation of the name of the professional person, or person designated under (a)(ii) of this subsection to receive the report and recommendation.

(b) If the report of an evaluation performed under RCW 10.77.060, 10.77.084(5), or section 106 of this act recommends that a defendant in custody should be evaluated by a designated mental health professional under chapter 71.05 RCW, the court shall order an evaluation be conducted prior to the individual's release from confinement following any conviction, dismissal, or acquittal, unless the individual is sentenced to confinement for more than twenty-four months.

(2) A designated mental health professional conducting an evaluation under subsection (1)(b) of this section shall notify the persons identified in subsection (1)(a) of this section within twenty-four hours detention was initiated under chapter 71.05 RCW.

(3) The petitioner in a proceeding initiated under subsection (2) of this section shall provide a copy of the results of the proceeding to the secretary of the department of social and health services.

(4) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this section may be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

**Sec. 3.** RCW 10.77.084 and 2007 c 375 s 3 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report ((~~as provided in~~)) under RCW 10.77.060 or section 106 of this act, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. The court shall order the defendant to undergo a period of treatment for restoration of competency within the time limits established by RCW 10.77.086 and 10.77.088 and the requirements of this section.

(b) ((~~A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.~~

~~(i) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.~~

~~(A) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.~~

~~(B) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.~~

~~(C) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.~~

~~(ii) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.~~

~~(iii) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.~~

~~(c)~~)) At the end of ((~~the mental health treatment and~~)) a competency restoration period ordered under (a) of this subsection, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. If, after notice and hearing, the court finds that competency has been restored, the stay entered under (a) of this subsection shall be lifted. ((~~If competency has not been restored, the proceedings shall be dismissed.~~)) If the court ((~~concludes~~)) finds that competency has not been restored, but that further treatment within the time limit((~~s~~)) established by RCW 10.77.086 ((~~or 10.77.088~~)) is likely to restore competency, the court may order ((~~that~~)) the defendant to undergo an additional period of treatment for purposes of competency restoration ((~~be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088~~)).

(((~~(d)~~))) (c) If at any time ((~~during the proceeding~~)) the court finds, following notice and hearing, ((~~a~~)) that the defendant is not competent and is either not likely to regain competency, or no current or further period of competency restoration treatment is allowable under RCW 10.77.086 or 10.77.088, the ((~~proceedings shall be dismissed~~)) court shall dismiss the charges without prejudice and ((~~the defendant shall be evaluated for civil commitment proceedings~~)) enter one of the following orders:

(i) If the charge was a felony, and was a serious offense as defined by RCW 10.77.092, the court shall detain the defendant and order the defendant to be transferred to a state hospital or other suitably secure mental health facility for purpose of evaluation under chapter 71.05 RCW.

(ii) If the charge was a nonfelony, and was a serious offense as defined by RCW 10.77.092, and the defendant was in custody and not on conditional release at the time of dismissal, the court may

detain the defendant and order the defendant to be transferred to an evaluation and treatment facility for the purpose of evaluation under chapter 71.05 RCW. The defendant may be detained in jail for no longer than three days, excluding holidays, prior to transfer or release, and subsequently may be detained by the evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, prior to the filing of a petition under chapter 71.05 RCW. The secretary may consent to receive the defendant at a state hospital in lieu of transfer to an evaluation and treatment facility. The defendant may be screened prior to transfer to determine whether civil commitment criteria are met.

(iii) If the charge was not a serious offense as defined by RCW 10.77.092, or if the charge was a nonfelony and the defendant was on conditional release at the time of dismissal, the court may order the defendant to undergo an evaluation by a designated mental health professional, and shall do so if required by RCW 10.77.065(1)(b). A defendant who is in custody, or who refuses to cooperate with the evaluation, may be detained in custody for up to forty-eight hours for this evaluation.

(d) Notwithstanding any other limitations, a defendant who has multiple criminal charges may undergo competency restoration treatment for all charges for the longest time period allowable for any of the charges.

(2) If the defendant is referred to the designated mental health professional for consideration of ((~~initial~~)) detention ((~~proceedings~~)) under chapter 71.05 RCW ((~~pursuant to this chapter~~)), the designated mental health professional shall provide ((~~prompt written~~)) notification of ((~~the results of the determination whether to commence initial detention proceedings under chapter 71.05 RCW and~~)) whether the ((~~person~~)) defendant was detained according to RCW 10.77.065(2). ((~~The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.~~))

(3) ((~~The fact~~)) A finding that the defendant is ((~~unfit to proceed~~)) not competent does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any ((~~commitment~~)) competency restoration period provided for by ((~~this section~~)) RCW 10.77.086 or 10.77.088, the facility providing evaluation and treatment shall provide to the court a written report ((~~of examination~~)) which meets the requirements of RCW 10.77.060(3).

**Sec. 4.** RCW 10.77.086 and 2007 c 375 s 4 are each amended to read as follows:

(((~~(1)~~))) If ((~~the~~)) a defendant is charged with a felony and determined to be incompetent((~~,~~)):

(1) Until ((~~he or she~~)) the defendant has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined to be unlikely to regain competency ((~~pursuant to RCW 10.77.084(1)(c)~~)), but in any event for a period of no longer than ninety days, the court((~~:~~

~~(a)~~)) shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment((~~; or~~

~~(b) May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person~~)).

(2) On or before expiration of the initial ((~~ninety-day~~)) period of commitment under subsection (1) of this section, the secretary shall provide the court and the parties with a report in accordance with RCW 10.77.060(3). The secretary shall return the defendant to court ((~~shall conduct~~)) for a hearing, at which ((~~it~~)) the court shall determine by a preponderance of the evidence whether or not the defendant is incompetent as provided by RCW 10.77.084(1)(b).

(3) If, following a hearing under subsection (2) of this section, the court finds ((~~by a preponderance of the evidence~~)) that ((~~a~~)) the defendant ((~~charged with a felony is~~)) remains incompetent, the court ((~~shall have the option of extending the~~)) may order ((~~of commitment or alternative~~)) a second period of competency restoration treatment for an additional ((~~ninety-day~~)) period((~~, but~~)) of up to ninety days.

(a) If a second period of competency restoration treatment would cause the defendant to be held in custody for a longer period than the defendant would have been likely to spend in custody if the defendant were convicted and sentenced to the top of the defendant's standard sentencing range, the court shall not order a second period of competency restoration treatment unless it finds by a preponderance of the evidence following a hearing that further competency restoration treatment is in the public interest due to particular circumstances related to the nature or impact of the alleged offense, or the criminal or treatment history of the defendant.

(b) If treatment is extended, the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ninety-day period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury.

(c) No extension shall be ordered for a second ninety-day period, nor for any subsequent period as provided in subsection (4) of this section, if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) ((~~For persons charged with a felony, at the hearing upon the expiration of the second ninety-day period or at the end of the first ninety-day period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and either civil commitment proceedings shall be instituted or the court shall order the release of the defendant. The criminal charges shall not be dismissed~~)) If the court or jury finds that the defendant remains incompetent following a second period of competency restoration treatment under subsection (3) of this section, the court may order a third and final period of competency restoration treatment only if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. A third period of competency restoration treatment shall not be ordered if the allegations against the defendant do not include one or more charges which are serious offenses as defined by RCW 10.77.092.

**Sec. 5.** RCW 10.77.088 and 2007 c 375 s 5 are each amended to read as follows:

(((~~(1)(a)~~))) If ((~~the~~)) a defendant is charged with a nonfelony ((~~crime which~~)) and determined to be incompetent:

(1) If at least one of the charges is a serious offense as ((~~identified in~~)) defined by RCW 10.77.092 ((~~and found by the court~~

~~to be not competent~~)), then the court shall order the secretary to place the defendant:

(((~~(i)~~))) (a) At a secure mental health facility in the custody of the department or an agency designated by the department for mental health treatment and restoration of competency. The placement shall not exceed fourteen days in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility; or

(((~~(ii)~~))) (b) On conditional release for up to ninety days for mental health treatment and restoration of competency((~~; or~~

~~(iii) Any combination of this subsection.~~

~~(b)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated mental health professional within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.~~

~~(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period~~)).

(2) If the defendant is charged with a nonfelony ((~~crime~~)) that is not a serious offense as defined in RCW 10.77.092((~~:~~

~~The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated mental health professional to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings~~)), the court shall not order competency restoration treatment, and shall instead enter an order under RCW 10.77.084(1)(c).

**NEW SECTION. Sec. 6.** A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or has advised the court or a party of his or her intention to rely upon a defense of diminished capacity and endorsed an expert witness who will testify in support of a diminished capacity defense, the court, on motion of the prosecuting attorney, shall either appoint or request the secretary to designate a qualified expert or professional person to evaluate and report upon the mental condition of the defendant. The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant.

(b) The court shall not order the secretary to perform an evaluation under this section for reasons other than those specified in (a) of this subsection.

(c) A defendant who is transported to a state hospital or other suitably secure mental health facility for an evaluation under this section may be admitted for only the length of time necessary to complete the evaluation, and for no longer than fifteen days.

(d) The prosecutor shall send the order for evaluation to the secretary along with a copy of the charging document, certification of probable cause, police report, and a summary of the defendant's criminal history. The court or either party may provide additional information to the secretary which it reasonably deems to be of assistance to the evaluation, unless such action would infringe upon ethical duties.

(2) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis of the mental condition of the defendant;

(c) An opinion as to competency;

(d) An opinion as to the defendant's sanity at the time of the act;

(e) An opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions;

(f) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(g) An opinion as to whether the defendant should be evaluated by a designated mental health professional for civil commitment under chapter 71.05 RCW prior to release from custody.

(3) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the evaluator. The defendant's expert or professional person has the right to file his or her own report following the guidelines of subsection (2) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

**NEW SECTION. Sec. 7.** A new section is added to chapter 10.77 RCW to read as follows:

Statements made by a defendant during a competency evaluation, competency hearing, or competency restoration treatment shall not be admissible in the state's case in chief. After the state's case in chief, those statements may be admissible according to the rules of evidence if a mental defense such as insanity or diminished capacity is asserted or to impeach testimony by the defendant.

**NEW SECTION. Sec. 8.** A new section is added to chapter 10.77 RCW to read as follows:

Any defendant placed in the custody of the secretary for competency restoration treatment shall be evaluated at the direction of the secretary as soon as possible and a determination made whether the defendant is an individual with a developmental disability.

(1) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant has the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.

(a) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.

(b) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(c) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(2) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(3) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

**NEW SECTION. Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Whenever a jail or detention center receives notice of a request or order requiring transfer of a defendant to a state hospital or other medical facility under RCW 10.77.060 or 10.77.084, the jail or detention center shall provide all medical information in its possession necessary for the admission of the defendant to the secretary within three days. The secretary shall not be responsible under subsection (2) of this section for unreasonable delays in transmission of medical information.

(2) If the secretary fails to conduct or complete a competency evaluation within the time limits prescribed by RCW 10.77.060, the court may conduct a show cause hearing upon the motion of any party to determine why the evaluation was not conducted or completed within the allotted time. An order to show cause shall be set forth in writing and shall be served upon the secretary. If the court finds that time limits were exceeded by the secretary without good cause, it may set a fixed time for the completion of the evaluation and may order the secretary to reimburse expenses to the jail for any excess days at a rate of ninety dollars per day. The hearing may include review of a corrective action plan entered under section 110(7) of this act. Failure to conduct or complete a competency evaluation within time limitations shall not be cause for dismissal of criminal charges.

(3) A jail is not civilly liable for delays by the secretary in providing competency evaluation services under RCW 10.77.060, or for the release of an individual from custody according to the requirements of RCW 10.77.084.

(4) Nothing in this section is intended to denigrate other rights retained by operators of jails or other parties.

**NEW SECTION. Sec. 10.** A new section is added to chapter 10.77 RCW to read as follows:

The department shall report annually to the legislature beginning October 1, 2010, concerning the waiting period for competency evaluations and competency restoration treatment during the past state fiscal year.

The report shall include:

(1) The number of competency evaluation referrals received, grouped by state hospital catchment;

(2) The average waiting period for competency evaluations, presented on a monthly basis, and grouped by state hospital catchment. The department shall separate competency evaluations which occur entirely in a jail or detention center from other competency evaluations. The waiting period measured shall be from the time the secretary receives the order for evaluation and other documents identified in RCW 10.77.060 to the time of distribution of the evaluation report;

(3) The average waiting period for competency evaluations, presented on an annual basis, and itemized by county. The evaluations shall be separated and measured as in subsection (2) of this section;

(4) The average waiting period for inpatient competency restoration, presented on a monthly basis, and grouped by state hospital catchment. The waiting period measured shall be from the time the secretary receives the restoration referral to the time the defendant is transported to the state hospital, but shall not include any delay solely attributable to a failure by a jail or detention center to provide information required by section 109(1) of this act;

(5) The number of competency restoration treatment referrals received on an annual basis, grouped by state hospital catchment. This information shall be separated into nonfelony referrals, first ninety-day felony referrals, second ninety-day felony referrals, and final one hundred eighty-day felony referrals. The report shall include average length of stay information and the percentage of successful outcomes at each stage;

(6) The number of hearings held pursuant to section 109(2) of this act during the reporting period, grouped by state hospital catchment; and

(7) If the data indicates that the department has failed to comply with the time limits prescribed by RCW 10.77.060 and 10.77.220, a description of a corrective action plan entered by the department to bring the department into compliance with these sections.

The department may include any additional information or subgroupings in the report that it determines to be appropriate.

## PART II
## TECHNICAL CHANGES

**Sec. 11.** RCW 10.77.163 and 2008 c 213 s 4 are each amended to read as follows:

(1) Before a person committed under this chapter is permitted temporarily to leave a treatment facility for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least forty-five days before the anticipated release and shall describe the conditions under which the release is to occur.

(2) In addition to the notice required by subsection (1) of this section, the superintendent of each state institution designated for the custody, care, and treatment of persons committed under this chapter shall notify appropriate law enforcement agencies through the state patrol communications network of the furloughs of persons committed under RCW ((~~10.77.086~~)) 10.77.084(1)(c) or 10.77.110. Notification shall be made at least thirty days before the furlough, and shall include the name of the person, the place to which the person has permission to go, and the dates and times during which the person will be on furlough.

(3) Upon receiving notice that a person committed under this chapter is being temporarily released under subsection (1) of this section, the prosecuting attorney may seek a temporary restraining order to prevent the release of the person on the grounds that the person is dangerous to self or others.

(4) The notice requirements contained in this section shall not apply to emergency medical furloughs.

(5) The existence of the notice requirements contained in this section shall not require any extension of the release date in the event the release plan changes after notification.

(6) The notice provisions of this section are in addition to those provided in RCW 10.77.205.

**Sec. 12.** RCW 71.05.280 and 2008 c 213 s 6 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c), and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime; or

(4) Such person is gravely disabled.

**Sec. 13.** RCW 71.05.290 and 2008 c 213 s 7 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c), then the professional person in charge of the treatment facility or his or her professional designee or the designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec. 14.** RCW 71.05.300 and 2008 c 213 s 8 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated mental health professional. The designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the regional support network administrator, and provide a copy of the petition to such persons as soon as possible. The regional support network administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

**Sec. 15.** RCW 71.05.320 and 2008 c 213 s 9 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That

(a) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(b) If the committed person has a developmental disability and has been determined incompetent pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c), and the best interests of the person or others will not be served by a less-restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for one hundred eighty-day treatment by the department. When appropriate and subject to available funds, treatment and training of such persons must be provided in a program specifically reserved for the treatment and training of persons with developmental disabilities. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of persons with developmental disabilities. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional or developmental disabilities professional may order the person apprehended under the terms and conditions of RCW 71.05.340.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(3) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional or developmental disabilities professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability presents a substantial likelihood of repeating similar acts considering the charged criminal behavior, life history, progress in treatment, and the public safety; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this subsection. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(4) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

**Sec. 16.** RCW 71.05.425 and 2008 c 213 s 10 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c) preceding commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 17.** RCW 71.09.025 and 2008 c 213 s 11 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(16), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county where that person was charged, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecutor with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(2) This section applies to acts committed before, on, or after March 26, 1992.

(3) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(4) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

**Sec. 18.** RCW 71.09.030 and 2008 c 213 s 12 are each amended to read as follows:

When it appears that: (1) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement on, before, or after July 1, 1990; (2) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement on, before, or after July 1, 1990; (3) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c); (4) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released on, before, or after July 1, 1990, pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (5) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act; and it appears that the person may be a sexually violent predator, the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney may file a petition alleging that the person is a "sexually violent predator" and stating sufficient facts to support such allegation.

**Sec. 19.** RCW 71.09.060 and 2008 c 213 s 13 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to ((~~[bc]~~)) be or has been released pursuant to RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW ((~~10.77.086(4)~~)) 10.77.084(1)(c) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing,

including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter, except that during all court proceedings the person shall be detained in a secure facility. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

**PART III**
**MISCELLANEOUS**

**NEW SECTION. Sec. 20.** Part headings used in this act are not any part of the law.

**NEW SECTION. Sec. 21.** Sections 101 and 102 of this act apply only to counties with a population greater than one million five hundred persons.

**NEW SECTION. Sec. 22.** Sections 101 and 102 of this act expire June 30, 2011."

Correct the title.

Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Green; Morrell and O'Brien.

MINORITY recommendation: Do not pass. Signed by Representatives Dammeier, Ranking Minority Member; Klippert and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5525 Prime Sponsor, Senator Carrell: Concerning rental vouchers to allow release from state institutions. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended:

On page 14, line 3, after "plan." insert "The voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services, including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming."

Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green; Morrell; O'Brien and Walsh.

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

Referred to Committee on Ways & Means.

March 26, 2009

SSB 5528 Prime Sponsor, Committee on Human Services & Corrections: Making technical nonsubstantive corrections to the initial point of contact program established in chapter 496, Laws of 2007. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 3, line 19, after "marital partners" insert "and domestic partners"

On page 3, line 20, after "during a marriage" insert "or domestic partnership"

On page 3, line 20, after "of marriage" insert "or domestic partnership"

On page 4, line 1, after "prenuptial" insert "or pre-domestic partnership"

On page 4, line 3, after "marital relationship" insert "or domestic partnership"

On page 4, line 6, after "marriage" insert "or domestic partnership"

On page 4, line 11, after "postmarital" insert "or pre-domestic partnership and post-domestic partnership"

On page 4, line 12, after "on" strike "spousal" and insert "((~~spousal~~))"

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority member; Flannigan; Kelley; Kirby; Ormsby and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Shea, Assistant Ranking Minority Member; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 27, 2009

ESSB 5529 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Regarding architects. Reported by Committee on Commerce & Labor

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

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

Referred to Committee on General Government Appropriations.

March 26, 2009

SSB 5531 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Modifying provisions relating to consumer protection act violations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 19.86.090 and 2007 c 66 s 2 are each amended to read as follows:

Any person who is injured in his or her business or property by a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he or she refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may bring a civil action in ((~~the~~)) superior court to enjoin further violations, to recover the actual damages sustained by him or her, or both, together with the costs of the suit, including a reasonable attorney's fee((~~, and~~)). In addition, the court may in its discretion, increase the award of damages up to an amount not to exceed three times the actual damages sustained: PROVIDED, That such increased damage award for violation of RCW 19.86.020 may not exceed ((~~ten~~)) twenty-five thousand dollars: PROVIDED FURTHER, That such person may bring a civil action in the district court to recover his or her actual damages, except for damages which exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorney's fees. The district court may, in its discretion, increase the award of damages to an amount not more than three times the actual damages sustained, but such increased damage award shall not exceed ((~~the amount specified in RCW 3.66.020~~)) twenty-five thousand dollars. For the purpose of this section, "person" ((~~shall~~)) includes the counties, municipalities, and all political subdivisions of this state.

Whenever the state of Washington is injured, directly or indirectly, by reason of a violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, it may sue therefor in ((~~the~~)) superior court to recover the actual damages sustained by it, whether direct or indirect, and to recover the costs of the suit including a reasonable attorney's fee.

**NEW SECTION. Sec.** 2. A new section is added to chapter 19.86 RCW to read as follows:

In a private action in which an unfair or deceptive act or practice is alleged under RCW 19.86.020, a claimant may establish that the act or practice is injurious to the public interest because it:

(1) Violates a statute that incorporates this chapter;

(2) Violates a statute that contains a specific legislative declaration of public interest impact; or

(3)(a) Injured other persons; (b) had the capacity to injure other persons; or (c) has the capacity to injure other persons."

Correct the title.

On page 2, after line 19, insert the following:

"**NEW SECTION. Sec. 3.** This act applies to all causes of action that accrue on or after the effective date of this act."

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Kelley; Kirby; Ormsby and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5539 Prime Sponsor, Committee on Government Operations & Elections: Regarding investment expenses of counties. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.29.024 and 2004 c 79 s 3 are each amended to read as follows:

The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any county funds appropriated and expended for the initial administrative costs of establishing a county investment pool provided in RCW 36.29.022. These funds shall be used by the county treasurer as a revolving fund to defray the cost of administering the pool without regard to budget limitations. Any credits or payments to political subdivisions shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivision's respective deposits in the county investment pool and the differing periods of time for which the amounts were placed in the county investment pool. A county investment pool must be available for investment of funds of any local government that invests its money with the county under the provisions of RCW 36.29.020, and a county treasurer shall follow the request from the local government to invest its funds in the pool. As used in this section "actual expenses" include only the county treasurer's direct and out-of-pocket costs and do not include indirect or loss of opportunity costs. As used in this section, "direct costs" means those costs that can be identified specifically with the administration of the county investment pool. Direct costs include: (1) Compensation of employees for the time devoted and identified specifically to administering the pool; and (2) the cost of materials, services, or equipment acquired, consumed, or expended specifically for the purpose of administering the pool."

Correct the title.

Signed by Representatives Simpson, Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

MINORITY recommendation: Do not pass. Signed by Representative Nelson, Vice Chair.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5548 Prime Sponsor, Senator Haugen: Requiring project improvements, including public transportation infrastructure improvements, to be credited against the imposition of impact fees. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based

upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(4) Shall provide a credit for the value of any dedication of land for public transit infrastructure improvements requested by the legislative authority of the applicable county, city, or town. A credit may only be provided under this subsection (4) if the public transit infrastructure improvement improves system capacity and the long-term operational costs for the new public transit infrastructure have been identified and secured for six or more years. Credits provided under this subsection (4) may not exceed the value of the impact fees for public streets and roads imposed on the applicable development;

(5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(((~~(5)~~))) (6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(((~~(6)~~))) (7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development;

(((~~(7)~~))) (8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5566 Prime Sponsor, Committee on Ways & Means: Harmonizing excise tax statutes with the streamlined sales and use tax agreement in regards to direct sellers, telecommunications ancillary services, commercial parking taxes, and exemption certificates. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

On page 10, after line 30, insert the following:

"**NEW SECTION. Sec. 5.** A new section is added to chapter 82.32 RCW to read as follows:

(1) Notwithstanding any other provision in this chapter, no interest or penalties may be imposed on any taxpayer because of errors in collecting or remitting the correct amount of local sales or use tax arising out of changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and section 502, chapter 6, Laws of 2007 if the taxpayer demonstrates that it made a good faith effort to comply with the sourcing rules.

(2) The relief from penalty and interest provided by subsection (1) of this section only applies to taxpayers with a gross income of the business of less than five hundred thousand dollars in the prior calendar year.

(3) The relief from penalty and interest provided by subsection (1) of this section does not apply with respect to sales occurring after December 31, 2012."

Correct the title.

Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta; Conway; Ericks; Santos and Springer.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5568 Prime Sponsor, Senator Tom: Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks; Santos and Springer.

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

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5580 Prime Sponsor, Senator Pridemore: Concerning school impact fees. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that impact fees are an important source of funding for public facilities, facilities that include school facilities. The legislature recognizes that impact fee provisions, including time limits associated with their use, can affect the operations and choices of developers, including developers of

affordable housing. The legislature recognizes also, that facilitating the construction of school facilities and affordable housing are both essential public responsibilities. The legislature, therefore, in recognition of its duties to provide for public education, and to promote the health and well-being of its citizens, intends to acknowledge the financial and administrative challenges that many local governments and private enterprises are experiencing and provide additional flexibility to local governments that choose to impose impact fees.

**Sec. 2.** RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May exempt housing projects that are affordable to households earning less than eighty percent of the adjusted area median income from impact fees for school facilities. Impact fees exempted under this subsection (3) are not required to be paid from other funds;

(4) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(((~~(4)~~))) (5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(((~~(5)~~))) (6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(((~~(6)~~))) (7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development;

(((~~(7)~~))) (8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

**Sec. 3.** RCW 82.02.070 and 1990 1st ex.s. c 17 s 46 are each amended to read as follows:

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

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

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

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

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

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

**NEW SECTION. Sec. 4.** A new section is added to chapter 82.02 RCW to read as follows:

Criteria must be developed by the office of the superintendent of public instruction for extending the use of school impact fees from six to ten years and this extension must require an evaluation for each respective school board of the appropriateness of the extension."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia; Springer; Upthegrove; White and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle and Short.

Passed to Committee on Rules for second reading.

March 26, 2009

ESSB 5601 Prime Sponsor, Committee on Health & Long-Term Care: Regulating speech-language pathology assistants. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** It is declared to be the policy of this state that, in order to safeguard the public health, safety, and welfare, to protect the public from incompetent, unscrupulous, unauthorized persons and unprofessional conduct, and to ensure the availability of the highest possible standards of speech-language pathology services to the communicatively impaired people of this state, it is necessary to provide regulatory authority over persons offering speech-language pathology services as speech-language pathology assistants.

**Sec. 2.** RCW 18.35.010 and 2005 c 45 s 1 are each amended to read as follows:

((~~As used in~~)) The definitions in this section apply throughout this chapter((~~,~~)) unless the context clearly requires otherwise((~~:~~)).

(1) "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) "Licensed audiologist" means a person who is licensed by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(3) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(4) "Board" means the board of hearing and speech.

(5) "Department" means the department of health.

(6) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing instrument fitter/dispenser or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(7) "Facility" means any permanent site housing a person engaging in the practice of speech-language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(8) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing instrument fitter/dispenser or licensed audiologist.

(9) "Good standing" means a licensed hearing instrument fitter/dispenser, licensed audiologist, ((~~or~~)) licensed speech-language pathologist, or certified speech-language pathology assistant whose license or certification has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states, territories, or the District of Columbia in the last two years.

(10) "Hearing instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices.

(11) "Hearing instrument fitter/dispenser" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(12) "Interim permit holder" means a person who holds the permit created under RCW 18.35.060 and who practices under the supervision of a licensed hearing instrument fitter/dispenser, licensed speech-language pathologist, or licensed audiologist.

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

(14) "Licensed speech-language pathologist" means a person who is licensed by the department to engage in the practice of speech-language pathology and meets the qualifications of this chapter.

(15) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

(16) "Speech-language pathology assistant" means a person who is certified by the department to provide speech-language pathology services under the direction and supervision of a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction, and meets all of the requirements of this chapter.

(17) "Direct supervision" means the supervising speech-language pathologist is on-site and in view during the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under direct supervision.

(18) "Indirect supervision" means the procedures or tasks are performed under the speech-language pathologist's overall direction and control, but the speech-language pathologist's presence is not required during the performance of the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under indirect supervision.

**Sec. 3.** RCW 18.35.040 and 2007 c 271 s 1 are each amended to read as follows:

(1) An applicant for licensure as a hearing instrument fitter/dispenser must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant has not committed unprofessional conduct as specified by chapter 18.130 RCW, and:

(a)(i) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter; and

(ii) Satisfactorily completes a minimum of a two-year degree program in hearing instrument fitter/dispenser instruction. The program must be approved by the board; or

(b) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state as provided in (a) of this subsection; or

(c)(i) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing

aid fitter/dispenser in another jurisdiction for at least forty-eight of the last sixty months, and submits proof of completion of advance certification from either the international hearing society or the national board for certification in hearing instrument sciences; and

(ii) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter or a substantially equivalent examination approved by the board.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2)(a) An applicant for licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

(((~~(a)~~))) (i) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(((~~(b)~~))) (ii) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(((~~(c)~~))) (iii) Has completed postgraduate professional work experience approved by the board.

(b) All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

(c) The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(3) An applicant for certification as a speech-language pathology assistant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and must have the following minimum qualifications:

(a) An associate of arts or sciences degree, or a certificate of proficiency, from a speech-language pathology assistant program from an institution of higher education that is approved by the board, as is evidenced by the following:

(i) Transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology coursework; and

(ii) Transcripts showing forty-five quarter hours or thirty semester hours of general education credit; or

(b) A bachelor of arts or bachelor of sciences degree, as evidenced by transcripts, from a speech, language, and hearing program from an institution of higher education that is approved by the board.

**Sec. 4.** RCW 18.35.095 and 2002 c 310 s 9 are each amended to read as follows:

(1) A hearing instrument fitter/dispenser licensed under this chapter and not actively practicing may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A hearing instrument fitter/dispenser on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Hearing instrument fitter/dispenser inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing instruments for more than five years from the expiration of the licensee's full fee license shall retake the practical or the written, or both, hearing instrument fitter/dispenser examinations required under this chapter and other requirements as determined by the board. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to take the hearing instrument fitter/dispenser practical examination, but must submit an affidavit attesting to their knowledge of the current Washington Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing instruments.

(3) A speech-language pathologist or audiologist licensed under this chapter, or a speech-language pathology assistant certified under this chapter, and not actively practicing either speech-language pathology or audiology may be placed on inactive status by the department at the written request of the license or certification holder. The board shall define by rule the conditions for inactive status licensure or certification. In addition to the requirements of RCW 43.24.086, the fee for a license or certification on inactive status shall be directly related to the cost of administering an inactive license or certification by the department. A person on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the fee for the year, and complying with subsection (4) of this section.

(4) Speech-language pathologist, speech-language pathology assistant, or audiologist inactive license or certification holders applying for active licensure or certification shall comply with requirements set forth by the board, which may include completion of continuing competency requirements and taking an examination.

**Sec. 5.** RCW 18.35.150 and 2002 c 310 s 15 are each amended to read as follows:

(1) There is created hereby the board of hearing and speech to govern the three separate professions: Hearing instrument fitting/dispensing, audiology, and speech-language pathology. The board shall consist of ((~~ten~~)) eleven members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be hearing instrument fitter/dispensers who are licensed under this chapter, have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists licensed under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists licensed under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting member shall be a speech-language pathology assistant certified in Washington. One advisory nonvoting member shall be a medical physician licensed in the state of Washington.

(3) The term of office of a member is three years. Of the initial appointments, one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms. No member shall be appointed to serve more than two consecutive terms.

A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair shall rotate annually among the hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. A quorum is a majority of the board. A hearing instrument fitter/dispenser, speech-language pathologist, and audiologist must be represented. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board.

**Sec. 6.** RCW 18.35.205 and 2002 c 310 s 22 are each amended to read as follows:

The legislature finds that the public health, safety, and welfare would best be protected by uniform regulation of hearing instrument fitter/dispensers, speech-language pathologists, speech-language pathology assistants, audiologists, and interim permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing or certification of hearing instrument fitter/dispensers, speech-language pathologists, speech-language pathology assistants, and audiologists and regulation of interim permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing instrument fitter/dispenser, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or interim permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision.

**Sec. 7.** RCW 18.35.260 and 2002 c 310 s 26 are each amended to read as follows:

(1) A person who is not a licensed hearing instrument fitter/dispenser may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing instrument fitter/dispenser.

(2) A person who is not a licensed speech-language pathologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words including "licensed speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a licensed speech-language pathologist.

(3) A person who is not a certified speech-language pathology assistant may not represent himself or herself as being so certified and may not use in connection with his or her name the words including "certified speech-language pathology assistant" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a certified speech-language pathology assistant.

(4) A person who is not a licensed audiologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed audiologist.

((~~(4)~~)) (5) Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed.

**Sec. 8.** RCW 18.130.040 and 2009 c 2 s 16 (Initiative Measure No. 1029) are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW;

(xxii) Recreational therapists;

(xxiii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiv) Athletic trainers licensed under chapter 18.250 RCW; ((~~and~~))

(xxv) Home care aides certified under chapter 18.88B RCW; and

(xxvi) Speech-language pathology assistants certified under chapter 18.35 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and licenses and registrations issued under chapter 18.260 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**NEW SECTION. Sec. 9.** A new section is added to chapter 18.35 RCW to read as follows:

Speech-language pathologists are responsible for patient care given by assistive personnel under their supervision. A speech-language pathologist may delegate to assistive personnel selected acts, tasks, or procedures that fall within the scope of speech-language pathology practice but do not exceed the education or training of the assistive personnel.

**NEW SECTION. Sec. 10.** A new section is added to chapter 18.35 RCW to read as follows:

A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language pathologist and must follow the individualized education program or treatment plan. Speech-language pathology assistants may not perform procedures or tasks that require diagnosis, evaluation, or clinical interpretation.

**NEW SECTION. Sec. 11.** An applicant for certification as a speech-language pathology assistant may meet the requirements for certification as a speech-language pathology assistant if, within one year of the effective date of this section, he or she submits a competency checklist to the board of hearing and speech, and is employed under the supervision of a speech-language pathologist for at least six hundred hours within the last three years as defined by the board by rule.

**NEW SECTION. Sec. 12.** A new section is added to chapter 18.35 RCW to read as follows:

Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person certified as a speech-language pathology assistant under this chapter.

**NEW SECTION. Sec. 13.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) The superintendent of public instruction shall report to the department of health:

(a) Any complaint or disciplinary action taken against a certified educational staff associate providing speech-language pathology services in a school setting; and

(b) Any complaint the superintendent receives regarding a speech-language pathology assistant certified under chapter 18.35 RCW.

(2) The superintendent of public instruction shall make the reports required by this section as soon as practicable, but in no case later than five business days after the complaint or disciplinary action.

**NEW SECTION. Sec. 14.** The code reviser is directed to put the defined terms in RCW 18.35.010 in alphabetical order.

**NEW SECTION. Sec. 15.** In order to allow for adequate time to establish the program created in this act, the provisions of this act must be implemented beginning one year after the effective date of this section."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Bailey; Campbell; Clibborn; Green; Herrera; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member and Hinkle.

Referred to Committee on Health & Human Services Appropriations.

March 26, 2009

SSB 5608 Prime Sponsor, Committee on Health & Long-Term Care: Concerning genetic counselors. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

On page 7, line 4, after "**Sec. 11.**" insert "(1) Except as provided in section 3 of this act, no person shall engage in the practice of genetic counseling unless he or she is licensed, or provisionally licensed, under this chapter.

(2)"

On page 7, after line 10, insert the following:

"**NEW SECTION. Sec. 13.** Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person licensed as a genetic counselor under this chapter."

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

On page 7, line 11, after "through" strike "12" and insert "13"

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5629 Prime Sponsor, Senator Kohl-Welles: Concerning pregnancy prevention programs. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) To reduce unintended pregnancies, state agencies may apply for sexual health education funding for programs that are medically and scientifically accurate, including, but not limited to, programs on abstinence, the prevention of sexually transmitted diseases, and the prevention of unintended pregnancies. The state shall ensure that such programs:

(a) Are evidence-based;

(b) Use state funds cost-effectively;

(c) Maximize the use of federal matching funds; and

(d) Are consistent with RCW 28A.300.475, the state's healthy youth act, as existing on the effective date of this section.

(2) As used in this section:

(a) "Medically and scientifically accurate" has the same meaning as in RCW 28A.300.475, as existing on the effective date of this section; and

(b) "Evidence-based" means a program that uses practices proven to the greatest extent possible through research in compliance with scientific methods to be effective and beneficial for the target population.

**Sec. 2.** RCW 74.12.410 and 1997 c 58 s 601 are each amended to read as follows:

(1) At the time of application or reassessment under this chapter the department shall offer or contract for family planning information and assistance, including alternatives to abortion, and any other available locally based ((~~teen~~)) unintended pregnancy prevention programs, to prospective and current recipients of ((~~aid to families with dependent children~~)) temporary assistance for needy families.

(2) The department shall work in cooperation with the superintendent of public instruction to reduce the rate of ((~~illegitimate births and~~)) abortions and unintended pregnancies in Washington state.

(((~~(3) The department of health shall maximize federal funding by timely application for federal funds available under P.L. 104-193 and Title V of the federal social security act, 42 U.S.C. 701 et seq., as amended, for the establishment of qualifying abstinence education and motivation programs. The department of health shall contract, by competitive bid, with entities qualified to provide abstinence education and motivation programs in the state.~~

~~(4) The department of health shall seek and accept local matching funds to the maximum extent allowable from qualified abstinence education and motivation programs.~~

~~(5)(a) For purposes of this section, "qualifying abstinence education and motivation programs" are those bidders with experience in the conduct of the types of abstinence education and motivation programs set forth in Title V of the federal social security act, 42 U.S.C. Sec. 701 et seq., as amended.~~

~~(b) The application for federal funds, contracting for abstinence education and motivation programs and performance of contracts under this section are subject to review and oversight by a joint committee of the legislature, composed of four legislative members, appointed by each of the two caucuses in each house.~~))"

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5638 Prime Sponsor, Committee on Government Operations & Elections: Concerning fire protection district contracts. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 52.12.031 and 1995 c 369 s 65 are each amended to read as follows:

(1) Any fire protection district organized under this title may:

(((~~(1)~~))) (a) Lease, acquire, own, maintain, operate, and provide fire and emergency medical apparatus and all other necessary or proper facilities, machinery, and equipment for the prevention and suppression of fires, the providing of emergency medical services and the protection of life and property;

(((~~(2)~~))) (b) Lease, acquire, own, maintain, and operate real property, improvements, and fixtures for housing, repairing, and maintaining the apparatus, facilities, machinery, and equipment described in subsection (1) of this section;

(((~~(3)~~))) (c) Contract with any governmental entity under chapter 39.34 RCW or private person or entity to consolidate, provide, or cooperate for fire prevention protection, fire suppression, investigation, and emergency medical purposes. In so contracting, the district or governmental entity is deemed for all purposes to be acting within its governmental capacity. This contracting authority includes the furnishing of fire prevention, fire suppression, investigation, emergency medical services, facilities, and equipment to or by the district, governmental entity, or private person or entity;

((~~(4)~~)) (d) Encourage uniformity and coordination of fire protection district operations. The fire commissioners of fire protection districts may form an association to secure information of value in suppressing and preventing fires and other district purposes, to hold and attend meetings, and to promote more economical and efficient operation of the associated fire protection districts. The commissioners of fire protection districts in the association shall adopt articles of association or articles of incorporation for a nonprofit corporation, select a chairman, secretary, and other officers as they may determine, and may employ and discharge agents and employees as the officers deem convenient to carry out the purposes of the association. The expenses of the association may be paid from funds paid into the association by fire protection districts: PROVIDED, That the aggregate contributions made to the association by a district in a calendar year shall not exceed two and one-half cents per thousand dollars of assessed valuation;

((~~(5)~~)) (e) Enter into contracts to provide group life insurance for the benefit of the personnel of the fire districts;

((~~(6)~~)) (f) Perform building and property inspections that the district deems necessary to provide fire prevention services and pre-fire planning within the district and any area that the district serves by contract in accordance with RCW 19.27.110: PROVIDED, That codes used by the district for building and property inspections shall be limited to the applicable codes adopted by the state, county, city, or town that has jurisdiction over the area in which the property is located. A copy of inspection reports prepared by the district shall be furnished by the district to the appropriate state, county, city, or town that has jurisdiction over the area in which the property is located: PROVIDED, That nothing in this subsection shall be construed to grant code enforcement authority to a district. This subsection shall not be construed as imposing liability on any governmental jurisdiction;

((~~(7)~~)) (g) Determine the origin and cause of fires occurring within the district and any area the district serves by contract. In exercising the authority conferred by this subsection, the fire protection district and its authorized representatives shall comply with the provisions of RCW ((~~48.48.060~~)) 43.44.050;

((~~(8)~~)) (h) Perform acts consistent with this title and not otherwise prohibited by law.

(2)(a) Any contract for fire protection and/or emergency medical services between a fire protection district and (i) a government entity under RCW 52.30.020; (ii) a private person; or (iii) a commercial entity must provide for adequate compensation.

(b) The adequate compensation requirement in (a) of this subsection does not apply to: Agreements existing on the effective date of this section; mutual aid agreements entered into by fire protection districts; agreements between fire protection districts and the department of natural resources; schools; libraries; or where the compensation requirements of the agreement are defined elsewhere in statute.

(c) "Adequate compensation" means the person or entity receiving the services must pay the same amount that would be collected by the fire district if the property was subject to the fire district levy.

(3) A fire protection district may not provide fire service protection or emergency medical services to any government entity or private person or commercial entity outside of their fire district without the express consent of the fire district, if any, in which the property is located."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Hinkle; Miloscia; Short; Springer; Upthegrove; White and Williams.

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

Passed to Committee on Rules for second reading.

March 26, 2009

E2SSB 5649 Prime Sponsor, Committee on Ways & Means: Regarding energy efficiency in buildings. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** FINDINGS. (1) The legislature finds that improving energy efficiency in structures is one of the most cost-effective means to meet energy requirements, and that while there have been significant efficiency savings achieved in the state over the past quarter century, there remains enormous potential to achieve even greater savings. Increased weatherization and more extensive efficiency improvements in residential, commercial, and public buildings achieves many benefits, including reducing energy bills, avoiding the construction of new electricity generating facilities with associated climate change impacts, and creation of family-wage jobs in performing energy audits and improvements.

(2) The legislature recognizes that the Washington State University extension energy program is uniquely qualified to implement programs consistent with the purposes of this act. Washington State University has nationally recognized experts in energy efficiency, renewable energy, energy technology, and program delivery.

(3) It is the intent of the legislature that financial and technical assistance programs be expanded to direct municipal, state, and federal funds, as well as electric and natural gas utility funding, toward greater achievement of energy efficiency improvements. To this end, the legislature establishes a policy goal of assisting in weatherizing twenty thousand homes and businesses in the state in each of the next five years. The legislature also intends to attain this goal in part through supporting programs that rely on community organizations and that there be maximum family-wage job creation in fields related to energy efficiency.

**PART 1**
**Energy Efficiency Improvement Program**

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

(1) "Account" means the energy efficiency assistance account created in section 110 of this act.

(2) "Board" means the state board for community and technical colleges.

(3) "Credit enhancement" means instruments which enhance the security for the payment of the lender's obligations and includes, but is not limited to insurance, letters of credit, lines of credit, or other similar agreements.

(4) "Customers" means residents, businesses, and building owners.

(5) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(6) "Director" means the director of the energy efficiency assistance program created in section 102 of this act.

(7) "Energy audit" means an assessment of building energy efficiency opportunities, from measures that require very little investment and without any disruption to building operation, normally involving general building operational measures, to low or relatively higher cost investment, such as installing timers to turn off equipment, replacing light bulbs, installing insulation, replacing equipment and appliances with higher efficiency equipment and appliances, and similar measures. The term includes an assessment of alternatives for generation of heat and power from renewable energy resources, including installation of solar hot water heating and equipment for photovoltaic electricity generation.

(8) "Energy efficiency and conservation block grant program" means the federal program created under the energy independence and security act of 2007 (P.L. 110-140).

(9) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(10) "Family wages" means wages that, aggregated over a year, total at least two hundred percent of the poverty guideline for a family of four, as established for the applicable calendar year by the United States department of health and human services, or compliance with prevailing wage provisions under chapter 39.12 RCW or area standard wages for public works as determined by the department of labor and industries, whichever is greater.

(11) "Low-income individual" means an individual whose annual household income does not exceed eighty percent of the area median income for the metropolitan, micropolitan, or combined statistical area in which that individual resides as determined annually by the United States department of housing and urban development.

(12) "Middle income" means household incomes that are between sixty and one hundred twenty percent of the area median income.

(13) "President" means the president of Washington State University.

(14) "Program" means the energy efficiency assistance program created in section 102 of this act.

(15) "Sponsor" means any entity or group of entities that submits a proposal under section 103 of this act, including but not limited to any nongovernmental nonprofit organization, local community action agency, tribal nation, community service agency, public service company, county, municipality, publicly owned electric, or natural gas utility.

(16) "Sponsor match" means the share, if any, of the cost of efficiency improvements to be paid by the sponsor.

(17) "State energy program" means the federal program created under the energy policy and conservation act (Title 42 U.S.C. Sec. 6321).

(18) "University" means Washington State University.

(19) "Weatherization" means making energy and resource conservation and energy efficiency improvements.

**NEW SECTION. Sec. 3.** ENERGY EFFICIENCY ASSISTANCE PROGRAM CREATED. (1) The energy efficiency assistance program is created within the extension energy program of Washington State University. The program must be managed by the director, who is appointed by the president. The director must:

(a) Establish a process to award grants on a competitive basis using funds from the account;

(i) Grants must be used to:

(A) Conduct direct outreach;

(B) Deliver energy efficiency services; or

(C) Create credit enhancements, such as loan loss reserve funds as specified in section 107 of this act;

(ii) The allocation of grants funded by state energy program funds shall be prioritized as follows:

(A) Weatherization of residential structures for middle-income households, that are not eligible for weatherization assistance under chapter 70.164 RCW; and

(B) Weatherization of operations of commercial, industrial, and nonprofit entities that have reported an average of less than one million dollars of gross revenue annually in the preceding five years;

(iii) Grants must be matched, in amounts determined by the director, by resources provided by the sponsor;

(iv) If a match is required by the director, preference must be given to those grant applicants with higher ratios of resources provided by the sponsor to grant awards;

(b) Provide technical assistance:

(i) To grant recipients conducting direct outreach, delivering energy efficiency services, or providing financing assistance and services; and

(ii) For farm energy assessment activities as specified in section 109 of this act;

(c) Cooperate and coordinate with the department of community, trade, and economic development and those entities providing energy audit and energy efficiency services and training to maximize the assistance provided in the program, avoid duplication of existing programs, and encourage:

(i) The use of service delivery models by grant recipients that have proven effective in existing programs; and

(ii) The development of geographic information about direct outreach to be shared between grant recipients and low-income weatherization providers to minimize duplication in targeting customers;

(d)(i) Distribute a minimum of sixty percent of program funding as grants, at least seventy-five percent of which must be prioritized for programs that provide both direct outreach and delivery of energy efficiency services;

(ii) Distribute a minimum of twenty percent of program funding for technical assistance and training resource moneys as specified in section 401 of this act;

(iii) Distribute a maximum of ten percent of program funding for credit enhancements, using criteria as developed in subsection (4) of this section;

(e) Retain a maximum of five percent of program funds provided by the federal government for program administration and the administrative overhead of the university; and

(f) Create an appliance efficiency rebate program with available funds from the energy efficient appliances rebate program authorized under the federal energy policy act of 2005 (P.L. 109-58).

(2) The director shall adopt guidelines addressing best practices for direct outreach and energy efficiency services and avoiding duplication of such services.

(3) The program must offer assistance to sponsors to develop and design effective energy efficiency services programs.

(4) The director, in consultation with the department of financial institutions, shall develop criteria regarding the extent which funds will be provided for the purposes of credit enhancements under subsection (1)(d)(iii) of this section and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(5) The director must approve any financing mechanisms offered by local municipalities pursuant to section 107 of this act.

(6) The director shall require any financial institution or other entity receiving funding for credit enhancements to:

(a) Provide books, accounts, and other records in such a form and manner as the director may require;

(b) Identify a loan loss reserve that is sufficient to cover projected loan losses which are not guaranteed by the United States government; and

(c) Identify any other credit enhancements.

(7)(a) If a sponsor match is required by the director, a sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of weatherization; or (ii) make yearly payments to the account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments may not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(c) The director may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

**NEW SECTION. Sec. 4.** GRANTS AUTHORIZED. (1) The director shall solicit grant applications from sponsors. The director may provide grants that fully or partially fund a sponsor's proposal. The director shall require the following in the grant application:

(a) The amount requested from the account;

(b) The amount of the sponsor match;

(c) The entities participating as sponsors and any entities that will provide administrative support, direct outreach, energy efficiency services, or financing assistance and services;

(d) A demonstration of effective fiscal accountability measures;

(e) Performance measures by which to assess the monetary and energy savings of proposed efficiency projects following project completion;

(f) A work plan detailing the means and methods by which the sponsor will carry out the required direct outreach or energy efficiency services;

(g) Convincing evidence that a sponsor providing energy efficiency services will be capable of helping customers achieve a savings-to-investment ratio of at least one over a payback period of twenty years, subject to the useful life of the improvements;

(h) Convincing evidence that the sponsor will ensure that workers delivering energy efficiency services are paid family wages and are performing jobs that could lead to careers in the construction trades or in the energy efficiency sector;

(i) Convincing evidence that the sponsor will be able to efficiently and expeditiously provide direct outreach or energy efficiency services, including details on the sponsor's proposed hiring practices, means of oversight of employees or contractors, plans to employ, to the extent feasible, workers trained in training programs using the curricula established in section 401 (1) and (2) of this act, and the use of quality control measures;

(j) Convincing evidence that the sponsor will use only responsible and reputable contractors with a satisfactory record of compliance with all applicable safety, environmental, and labor laws and regulations; and

(k) Any other information required by the director.

(2) In awarding grants, the director shall give preference to sponsors that use best efforts to achieve the standards outlined in (a) through (c) of this subsection.

(a) Twenty percent of all construction work hours will be performed by state certified apprentices on a contractor by contractor basis;

(b) Twenty-five percent of all apprentice construction work hours will be performed by first period apprentices; or

(c) Not less than twenty percent of all construction work hours will be performed by:

(i) Individuals whose primary place of residence is within the same county, the same metropolitan statistical area, or thirty miles of the proposed project and who qualifies as being a disadvantaged worker because the worker is a low-income individual, an at-risk youth, or a previous offender; or

(ii) Either recently separated veterans or members of the national guard, or both, who are returning from active duty in a foreign war zone.

(3) In calculating compliance with the twenty percent standard outlined in subsection (2)(c)(i) of this section, construction work hours performed by residents of states other than Washington may not be included.

(4) Preference must also be given to sponsors whose projects are designed to achieve the greatest scope and economies of scale in the provision of energy efficiency services.

(5) In awarding grants, the director shall also give preference to applications that feature the utilization of a hiring and workforce development program undertaken in partnership with entities that have a successful track record of identifying and recruiting disadvantaged workers, implementing and operating workers skills training and education programs, and placing disadvantaged workers into sustained employment.

(6) The director shall allocate funds appropriated from the account among proposals accepted or accepted in part so as to achieve the greatest possible expected monetary and energy savings by energy consumers and shall, to the extent feasible, ensure a balance of participation for (a) geographic regions in the state; (b) types of fuel used for heating; (c) owner-occupied and rental residences; and (d) single-family and multifamily dwellings. The director may allocate funds to a nonutility sponsor without requiring a sponsor match if the director determines that such an allocation is necessary to provide the greatest benefits to middle-income residents of the state.

(7)(a) The director shall develop, track, and require reporting of compliance with performance metrics for each sponsor receiving a grant award. The performance metrics must include, but not be limited to:

(i) Monetary and energy savings achieved;

(ii) Savings-to-investment ratio achieved for customers;

(iii) Wage levels of jobs created;

(iv) Efficiency and speed of delivery of services; and

(v) Attainment of the standards established under subsection (2)(a) through (c) of this section.

(b) Programs receiving funding under this section are required to report on compliance with the performance metrics every six

months following the receipt of grants, with the last report submitted six months after program completion. The director shall verify the accuracy of these reports.

(c) The director shall provide a progress report on all grant programs to the appropriate committees of the legislature by December 1st of each year.

**NEW SECTION. Sec. 5.** EXPEDITED GRANTS IN 2009. (1) The legislature finds that conducting energy audits and performing efficiency improvements in residences and commercial structures creates family-wage jobs and will stimulate local economies where this work is conducted. Therefore, the legislature directs that where appropriations are made to the account specifically for the purpose of expedited grants, the director shall accord priority to making such grants over all other duties in the program. The director shall award grants within the time frame set by the federal government under the programs providing the funding for these activities. The director shall develop and utilize expedited grant procedures to ensure both compliance with federal program requirements and the legislature's goal of providing prompt stimulation to local economies.

(2) By November 1, 2009, the director shall report to the appropriate fiscal and policy committees in the senate and house of representatives on the status of grant awards under this section. The report may be combined with that made by the department of community, trade, and economic development under section 206 of this act.

**NEW SECTION. Sec. 6.** PILOT GRANTS FOR COMMUNITY-WIDE URBAN RESIDENTIAL AND COMMERCIAL EFFICIENCY UPGRADES. (1) The legislature finds that comprehensive energy efficiency retrofits in the residential and smaller commercial markets are significantly underutilized due in part to the complex set of decisions that property owners face when securing an energy audit, arranging for financing, and obtaining a contractor to perform the retrofit work. While these retrofits have previously been viewed as primarily benefiting the property owner with energy cost savings, the additional benefits of the avoided costs of new energy generation and the environmental and climate benefits of reduced carbon emissions call for new ways of reaching residential and business building owners to deliver energy efficiency services. Therefore, the purpose of this section is to encourage programs that will combine utility, government, and private investments in residential and commercial building energy efficiency upgrades, with a community-based outreach component to overcome the hurdles that property owners face in considering these upgrades.

(2)(a) The director shall award not less than three grants for programs that:

(i) Provide assistance for energy audits and energy efficiency related improvements to structures owned by or used for residential, commercial, or nonprofit purposes in specified urban neighborhoods where the objective is to achieve a high rate of participation among building owners within the pilot area;

(ii) Utilize volunteer support to reach out to potential customers through the use of community-based institutions;

(iii) Employ qualified energy auditors to perform the energy audits using recognized retrofit measures that are cost-effective;

(iv) Select and provide oversight of contractors to perform retrofit work. The contractors must agree to participate in quality control and efficiency training, pay prevailing wages, meet minimum apprentice utilization standards, and hire from the community in which the program is located; and

(v) Work with customers to secure financing for their portion of the project and apply for and administer utility, public, and charitable funding provided for energy audits and retrofits.

(b) Priority must be given to grant applicants that can secure a sponsor match of at least one dollar for each dollar awarded.

**NEW SECTION. Sec. 7.** PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS--FINDINGS AND INTENT. (1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing.

**NEW SECTION. Sec. 8.** PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program are authorized to use those funds, subject to federal requirements, to establish loan loss reserves or toward risk reduction mechanisms, such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section shall conform to all applicable state and federal regulations.

**NEW SECTION. Sec. 9.** PROMOTING THE INVOLVEMENT OF STATE-CHARTERED BOND AUTHORITIES IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) The legislature finds that the state bond authorities have capacities that can be applied to financing energy efficiency projects for their respective eligible borrowers: Washington economic development finance authority for industry; Washington state housing finance commission for single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities; Washington higher education facilities authority for private, nonprofit higher education; and Washington health care facilities authority for hospitals and all types of health clinics.

(2)(a) Subject to federal requirements, the state bond authorities may accept and administer an allocation of the state's share of the federal energy efficiency funding for designing energy efficiency finance loan products and for developing and operating energy efficiency finance programs. The state bond authorities shall coordinate with the program on the design of the bond authorities' program.

(b) The director of the program may make allocations of the federal funding to the state bond authorities and may direct and administer funding for outreach, marketing, and delivery of energy services to support the programs by the state bond authorities.

(c) The legislature authorizes a portion of the federal energy efficiency funds to be used by the state bond authorities for credit enhancements and reserves for such programs.

(3) The Washington state housing finance commission may:

(a) Issue revenue bonds as the term "bond" is defined in RCW 43.180.020 for the purpose of financing loans for energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of federal funds or commission bonds; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies.

**NEW SECTION. Sec. 10.** FARM ENERGY ASSESSMENTS. (1) The legislature finds that increasing energy costs put farm viability and competitiveness at risk and that energy efficiency improvements on the farm are the most cost-effective way to manage these costs. The legislature further finds that current on-farm energy efficiency programs often miss opportunities to evaluate and conserve all types of energy, including fuels and fertilizers.

(2) The director, in consultation with the department of agriculture, shall form an interdisciplinary team of agricultural and energy extension agencies to develop and offer new methods to help agricultural producers assess their opportunities to increase energy efficiency in all aspects of their operations. The interdisciplinary team must develop and deploy:

(a) Online energy self-assessment software tools to allow agricultural producers to assess whole-farm energy use and to identify the most cost-effective efficiency opportunities;

(b) Energy auditor training curricula specific to the agricultural sector and designed for use by agricultural producers, conservation districts, agricultural extensions, and commodity groups;

(c) An effective infrastructure of trained energy auditors available to assist agricultural producers with on-farm energy audits and identify cost-share assistance for efficiency improvements; and

(d) Measurement systems for cost savings, energy savings, and carbon emission reduction benefits resulting from efficiency improvements identified by the interdisciplinary team.

(3) The director shall seek to obtain additional resources for this section from federal and state agricultural assistance programs and from other sources.

**NEW SECTION. Sec. 11.** ACCOUNT CREATED. The energy efficiency assistance account is created in the state treasury. Except for appropriations and federal funds that must be used for low-income weatherization assistance pursuant to chapter 70.164 RCW, a minimum of thirty million dollars of all federal funds received pursuant to the federal American recovery and reinvestment act of 2009 (P.L. 111-5), the federal energy independence and security act of 2007 (P.L. 110-140), the federal energy policy and conservation act (Title 42 U.S.C. Sec. 6321), and the energy efficient appliance rebate program authorized by the federal energy policy act of 2005 (P.L. 109-58), and any other future appropriations in excess of levels of federal fiscal year 2008 for these programs, for the purpose of assisting with energy efficiency assessments, audits, or improvements must be deposited in the account. Other funds, gifts, grants, and endowments from public or private sources, in trust or otherwise, may be directed into the account. Any moneys received from sponsor match payments must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of this chapter.

## PART 2
## Low-Income Weatherization Programs

**Sec. 12.** RCW 70.164.020 and 1995 c 399 s 199 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Energy ((~~assessment~~)) audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

(3) "Family wages" means wages that, aggregated over a year, total at least two hundred percent of the poverty guideline for a family of four, as established for the applicable calendar year by the United States department of health and human services, or compliance with prevailing wage provisions under chapter 39.12 RCW or area standard wages for public works as determined by the department of labor and industries, whichever is greater.

(4) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

(((~~(4)~~))) (5) "Low income" means household income ((~~that is at or below one hundred twenty-five percent of the federally established poverty level~~)) as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

(((~~(5)~~))) (6) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

(((~~(6)~~))) (7) "Residence" means a dwelling unit as defined by the department.

(((~~(7)~~))) (8) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

(((~~(8)~~))) (9) "Sponsor match" means the share((~~, if any,~~)) of the cost of weatherization to be paid by the sponsor.

(((~~(9)~~))) (10) "Sustainable residential weatherization" or "weatherization" means ((~~materials or measures, and their installation, that are used to improve the thermal efficiency of a residence~~)) activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

(((~~(10)~~))) (11) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of

weatherization of residences under this chapter and has been approved by the department.

**Sec. 13.** RCW 70.164.040 and 1987 c 36 s 4 are each amended to read as follows:

(1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the sponsor match, the amount requested ((~~from the low-income weatherization assistance account~~)), the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective, structurally feasible, sustainable residential weatherization materials, measures, and practices, as determined by the department, shall be installed when a low-income residence is weatherized.

(3)(a) The department may in its discretion accept, accept in part, or reject proposals submitted. The department shall allocate funds appropriated from the low-income weatherization assistance account among proposals accepted or accepted in part so as to:

(i) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers ((~~and~~)) over the longest period of time;

(ii) Identify and correct, to the extent practical, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(iii) Create family-wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(iv) Leverage, to the extent feasible, environmentally friendly sustainable technologies, practices, and designs.

(b) The department shall, to the extent feasible, ensure a balance of participation in proportion to population among low-income households for: (((~~(a)~~))) (i) Geographic regions in the state; (((~~(b)~~))) (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; (((~~(c)~~))) (iii) owner-occupied and rental residences; and (((~~(d)~~))) (iv) single-family and multifamily dwellings.

(c) The department shall give priority to weatherize dwelling units occupied by low-income households with incomes at or below one hundred twenty-five percent of the federally established poverty level.

(d) The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

(e) The department shall give priority to sponsors that commit to use best efforts to achieve the standards outlined in section 103(2) (a) through (c) of this act.

(4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of weatherization, or (ii) make yearly payments to the low-income weatherization assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(5) Programs receiving funding under this section must report to the department every six months following the receipt of a grant regarding the number of dwelling units weatherized, family-wage jobs created or maintained, and state certified apprentices employed, with the last report submitted six months after program completion. The director shall verify the accuracy of these reports.

(6) The department shall adopt rules to carry out this section.

**Sec. 14.** RCW 70.164.050 and 1987 c 36 s 5 are each amended to read as follows:

(1) The department is responsible for ensuring that sponsors and weatherizing agencies comply with the state laws, the department's rules, and the sponsor's proposal in carrying out proposals.

(2) Before a residence is weatherized, the department shall require that an energy ((~~assessment~~)) audit be conducted.

(3) To the greatest extent practicable and allowable under federal rules and regulations, the department shall maximize available federal low-income home energy assistance program funding for weatherization projects.

**Sec. 15.** RCW 70.164.060 and 1987 c 36 s 6 are each amended to read as follows:

Before a leased or rented residence is weatherized, written permission shall be obtained from the owner of the residence for the weatherization. The department shall adopt rules to ensure that: (1) The benefits of weatherization assistance ((~~in connection with a leased or rented residence~~)), including utility bill reduction and preservation of affordable housing stock, accrue primarily to low-income tenants occupying a leased or rented residence; (2) as a result of weatherization provided under this chapter, the rent on the residence is not increased and the tenant is not evicted; and (3) as a result of weatherization provided under this chapter, no undue or excessive enhancement occurs in the value of the residence. This section is in the public interest and any violation by a landlord of the rules adopted under this section shall be an act in trade or commerce violating chapter 19.86 RCW, the consumer protection act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 70.164 RCW to read as follows:

(1) The department shall coordinate with the Washington State University energy efficiency assistance program created in section 102 of this act in order to maximize the extension of weatherization assistance across low-income and middle-income households. To the greatest extent practicable and allowable under federal rules and regulations, the department shall maximize available federal low-income home energy assistance program funding for weatherization projects.

(2) The department may solicit proposals for low and middle-income weatherization projects, if providing funding specifically for additional projects. The department shall determine a priority ranking system for determining the order of preference for projects for low-income households.

**NEW SECTION. Sec. 17.** EXPEDITED LOW-INCOME HOUSEHOLD ENERGY AUDIT PROGRAM GRANTS IN 2009. (1) The legislature finds that conducting energy audits and performing efficiency improvements in low-income households creates family-wage jobs and will stimulate local economies where this work is conducted. Therefore, the legislature directs that where appropriations are made to the low-income weatherization assistance program as part of a federal economic stimulus, the department of

community, trade, and economic development shall award grants as quickly as practical for maximum community economic benefit within the parameters stipulated with the funding.

(2) By November 1, 2009, the department of community, trade, and economic development shall report to the appropriate fiscal and policy committees in the senate and house of representatives on the status of grant awards under this section. The report may be combined with that made by the director of the energy efficiency assistance program under section 104 of this act.

**PART 3**
**Consolidation of Weatherization Programs**

**NEW SECTION. Sec. 18.** It is the intent of the legislature that all state administered building weatherization programs are conducted to provide the greatest efficiency in terms of administrative processes, economies of scale, institutional memory, and institutional competence. The legislature also intends by this act to expand state administered building weatherization programs to provide services not only to low-income residents in the state, but also to middle-income residences, farms, commercial buildings, public buildings, public agencies, and other institutions.

**NEW SECTION. Sec. 19.** (1) The department of community, trade, and economic development and the Washington State University energy extension program shall review:

(a) Low-income weatherization programs, as authorized under chapter 70.164 RCW, weatherization, weatherization services, and energy efficiency programs administered by the state;

(b) The low-income energy assistance program funded by the federal government pursuant to the federal low-income energy assistance act (Title 42 U.S.C. 8623 et seq.);

(c) Weatherization and energy efficiency programs funded by private entities, utilities, the federal government, and other entities; and

(d) Administrative and overhead costs incurred by weatherization and energy efficiency programs.

(2) By July 1, 2010, the department of community, trade, and economic development and the Washington State University energy extension program shall provide to the governor and the appropriate committees of the legislature a report with findings from the review required in subsection (1) of this section and recommendations for the coordination of the state's energy efficiency and weatherization programs, including the low-income energy assistance and low-income weatherization programs under chapter 70.164 RCW and the weatherization program created in section 102 of this act.

(a) The recommendations must include:

(i) Identification of best practices and opportunities to consolidate and create efficiencies and economies of scale;

(ii) Identification of legislative action necessary to maximize the state's receipt of funding for weatherization and energy efficiency purposes; and

(iii) Identification of methods to minimize costs through coordination and potential consolidation of programs.

(b) If the report finds that administrative efficiencies may best be achieved by the transition of functions from one state agency or entity to another, then the recommendations must also include:

(i) Identification of statutory changes necessary to ensure an expeditious and efficient transition with the least programmatic disruption; and

(ii) A timeline for the process that includes methods to phase and synchronize the transition of administrative procedures, records, files, and staff in accordance with the goals and intent of this section and section 301 of this act.

**PART 4**
**Training Programs for Energy Efficiency Jobs**

**NEW SECTION. Sec. 20.** WORKFORCE TRAINING FOR THE PERFORMANCE OF ENERGY AUDITS AND RETROFITS. (1) The legislature finds that it is in the interest of building owners, building residents, and the state that energy audits and energy efficiency services be performed in a manner that is both consistent with current best practices and that provides increased occupational skills, education, and training to workers in the state. The director, in collaboration with the board, the workforce training and education coordinating board, the employment security department, the Washington state building and construction trades council, the Washington state apprenticeship and training council, and the office of the superintendent of public instruction, shall identify the necessary skills and qualifications required to perform the energy audits and energy efficiency services authorized under this act.

(2) The board shall work with the Washington state apprenticeship and training council and the office of the superintendent of public instruction, to jointly develop, by June 30, 2010, curricula and training programs, to include on-the-job training, classroom training, and safety and health training, for the development of the skills and qualifications identified by the director under subsection (1) of this section.

(3) Training resource moneys may be provided from the account for the following purposes:

(a) To develop and deploy curricula and training programs in accordance with subsection (2) of this section;

(b) For the expansion of existing high school, community and technical college, journey level skills improvement and apprenticeship training programs, and community-based training programs providing energy audit and energy efficiency services training;

(c) For the implementation of new training programs developed under the terms of this chapter;

(d) To supplement internship, preapprenticeship, and apprenticeship programs using curricula developed under subsection (2) of this section; and

(e) For other training activities identified by the director to supplement and expand the skills of the existing workforce.

(4) The director shall direct the delivery of education and training resource moneys as necessary to meet demands for jobs, giving priority in distribution of training resource moneys to those educational programs that can provide convincing evidence that they are able to provide the requisite skills education and training expeditiously.

(5) The board shall target a portion of any federal stimulus funding received to ensure commensurate capacity for high employer demand programs of study developed under this section. To that end, the director must coordinate with the workforce training and education coordinating board, the state board for community and technical colleges, or other appropriate state agency in the application for and receipt of such funding that may be made available through the federal youthbuild program, workforce investment act, job corps, or other relevant federal programs.

(6) The Washington apprenticeship and training council shall evaluate the potential of existing apprenticeship and training programs that would produce workers with the skills needed to conduct energy audits and provide energy efficiency services and

deliver their findings to the director and the appropriate committees of the legislature as soon as possible, but no later than January 18, 2010.

(7) The director shall direct funding to programs that provide skills education and training services to underserved and disadvantaged communities in the state, in accordance with RCW 43.330.310. This may include, but is not limited to, at-risk youth seeking employment pathways out of poverty and into economic self-sufficiency. The director shall consult with the employment security department to create a strategy to ensure that the workers who receive training under these programs are provided with the type of employment opportunities contemplated by this chapter.

(8) The board shall provide an interim report to the appropriate committees of the legislature by December 1, 2011, and a final report by December 1, 2013, detailing the effectiveness of, and any recommendations for improving, the worker training curricula and programs established in this section.

**NEW SECTION. Sec. 21.** UNEMPLOYED WORKERS. Community and technical colleges that enroll unemployed workers into the relevant curricula and training programs indicated in this act shall receive funding as indicated in section 2, chapter . . ., Laws of 2009 (section 2 of Engrossed Second Substitute Senate Bill No. 5809).

**NEW SECTION. Sec. 22.** DESIGNATION OF WORKFORCE TRAINING PROGRAMS FOR THE PERFORMANCE OF ENERGY AUDITS AND RETROFITS. (1) Existing curricula and training programs or programs provided by community and technical colleges in the state developed under section 401 of this act must be recognized as programs of study under RCW 28B.50.273.

(2) Subject to available funding, the board may grant enrollment priority to persons who qualify for waiver under RCW 28B.15.522 and who enroll in curricula and training programs provided by community or technical colleges in the state that have been developed in accordance with section 401 of this act.

**PART 5**
**Energy Efficiency in Publicly Funded Housing**

**NEW SECTION. Sec. 23.** A new section is added to chapter 43.185 RCW to read as follows:

ENERGY AUDITS AND RETROFITS IN PUBLICLY FUNDED HOUSING. (1) The legislature finds that growing preservation and rehabilitation needs in the housing trust fund property portfolio provide opportunities to advance energy efficiency and weatherization efforts for low-income individuals in Washington state while protecting the state's six hundred million dollars in affordable housing investments. Preservation of existing affordable housing, when done in conjunction with weatherization activities, is a cost-effective, prudent, and environmentally friendly strategy to ensure that low-income housing remains durable, safe, and affordable. Therefore, the legislature intends that where federal funds are available for increasing and improving energy efficiency of low-income housing that these funds shall be utilized, subject to federal requirements, for energy audits and implementing energy efficiency measures in the state housing trust fund real estate portfolio.

(2) The department shall review all housing properties in the housing trust fund real estate portfolio and identify those in need of major renovation or rehabilitation. In its review, the department shall survey property owners for information including, but not limited to, the age of the building and the type of heating, cooling, plumbing, and electrical systems contained in the property. The department shall prioritize all renovation or rehabilitation projects identified in the review by the department's ability to:

(a) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the greatest period of time;

(b) Promote the greatest possible health and safety improvements for residents of low-income households; and

(c) Leverage, to the extent feasible, technologically advanced and environmentally friendly sustainable technologies, practices, and designs.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall use the prioritization of potential energy efficiency needs and opportunities in subsection (2) of this section to make offers of energy audit services to project owners and operators. The department shall use all practicable means to achieve the completion of energy audits in at least twenty-five percent of the properties in its portfolio that exceed twenty-five years in age, by June 30, 2011. Where the energy audits identify cost-effective weatherization and other energy efficiency measures, the department shall accord a priority within appropriated funding levels to include funding for energy efficiency improvements when the department allocates funding for renovation or rehabilitation of the property.

**PART 6**
**Miscellaneous**

**NEW SECTION. Sec. 24.** Sections 101 through 110 and 401 through 403 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 25.** Captions and part headings used in this act are not any part of the law.

**NEW SECTION. Sec. 26.** 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. 27.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 28.** The governor shall designate a person as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate change initiatives shall coordinate with this designee."

Correct the title.

Signed by Representatives McCoy, Chair; Eddy, Vice Chair; Carlyle; Finn; Hasegawa; Hudgins; Jacks; Takko and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Condotta; DeBolt; Herrera and McCune.

Referred to Committee on Ways & Means.

March 26, 2009

ESSB 5651 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Providing humanitarian requirements for certain dog breeding practices. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) Dogs are neither a commercial crop nor commodity and should not be indiscriminately or irresponsibly mass produced;

(2) Large-scale dog breeding increases the likelihood that the dogs will be denied their most basic needs including but not limited to: Sanitary living conditions, proper and timely medical care, the ability to move freely at least once per day, and adequate shelter from the elements;

(3) Without proper oversight, large-scale breeding facilities can easily fall below even the most basic standards of humane housing and husbandry;

(4) Current Washington state laws are inadequate regarding the care and husbandry of dogs in large-scale breeding facilities;

(5) No Washington state agency currently regulates large-scale breeding facilities;

(6) The United States department of agriculture does not regulate large-scale breeding facilities that sell dogs directly to the public and thus, such direct-sales breeders are currently exempt from even the minimum care and housing standards outlined in the federal animal welfare act;

(7) Documented conditions at large-scale breeding facilities include unsanitary conditions, potential for soil and groundwater contamination, the spread of zoonotic parasites and infectious diseases, and the sale of sick and dying animals to the public; and

(8) An unfair fiscal burden is placed on city, county, and state taxpayers as well as government agencies and nongovernmental organizations, which are required to care for discarded or abused and neglected dogs from large-scale breeding facilities.

**NEW SECTION. Sec.** 2. A new section is added to chapter 16.52 RCW to read as follows:

(1) A person may not own, possess, control, or otherwise have charge or custody of more than fifty dogs with intact sexual organs over the age of six months at any time.

(2) Any person who owns, possesses, controls, or otherwise has charge or custody of more than ten dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

(a) Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

(b) Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure specified in subsection (2)(a) of this section allowing the dog free mobility for the entire exercise period, but may not include use of a cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

(c) Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:

(i) Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must have a means of fire suppression, such as functioning fire extinguishers, on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(ii) Housing facilities must enable all dogs to remain dry and clean;

(iii) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

(iv) Housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;

(v) A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;

(vi) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(vii) Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and

(viii) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must never be placed in an enclosure with another animal, except for breeding purposes. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision.

(d) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.

(e) Provide veterinary care without delay when necessary. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.

(3) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor.

(4) This section does not apply to the following:

(a) A publicly operated animal control facility or animal shelter;

(b) A private, charitable not-for-profit humane society or animal adoption organization;

(c) A veterinary facility;

(d) A retail pet store;

(e) A research institution;

(f) A boarding facility; or

(g) A grooming facility.

(5) Subsection (1) does not apply to a commercial dog breeder licensed, before the effective date of this act, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. **Sec.** 2131 et seq.).

(6) For the purposes of this section, the following definitions apply, unless the context clearly requires otherwise:

(a) "Dog" means any member of *Canis lupus familiaris*; and

(b) "Retail pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals to be kept as household pets and is regulated by the United States department of agriculture.

**NEW SECTION. Sec.** 3. This act takes effect January 1, 2010."

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Flannigan; Kelley; Kirby; Ormsby and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Shea, Assistant Ranking Minority Member; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5665 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Authorizing a joint self-insurance program for two or more affordable housing entities. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** This chapter is intended to provide authority for two or more affordable housing entities to participate in a joint self-insurance program covering property or liability risks. This chapter provides affordable housing entities with the exclusive source of authority to jointly self-insure property and liability risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services with other affordable housing entities. This chapter must be liberally construed to grant affordable housing entities maximum flexibility in jointly self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. This chapter is intended to require prior approval for the establishment of every joint self-insurance program. In addition, this chapter is intended to require every joint self-insurance program for affordable housing entities established under this chapter to notify the state of the existence of the program and to comply with the regulatory and statutory standards governing the management and operation of the programs as provided in this chapter. This chapter is not intended to authorize or regulate self-insurance of unemployment compensation under chapter 50.44 RCW or industrial insurance under chapter 51.14 RCW.

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

(1) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented on a basis that is affordable to households with an income of eighty percent or less of the county median family income, adjusted for family size.

(2) "Affordable housing entity" means any of the following:

(a) A housing authority created under the laws of this state or another state and any agency or instrumentality of a housing authority including, but not limited to, a legal entity created to conduct a joint self-insurance program for housing authorities that is operating in accordance with chapter 48.62 RCW;

(b) A nonprofit corporation, whether organized under the laws of this state or another state, that is engaged in providing affordable housing and is necessary for the completion, management, or operation of a project because of its access to funding sources that are not available to a housing authority, as described in this section; or

(c) A general or limited partnership or limited liability company, whether organized under the laws of this state or another state, that is engaged in providing affordable housing as defined in this section. A partnership or limited liability company may only be considered an affordable housing entity if a housing authority or nonprofit corporation, as described in this subsection, satisfies any of the following conditions: (i) It has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company; (ii) it possesses the power to direct management or policies of the partnership or limited liability company; or (iii) it has entered into a contract to lease, manage, or operate the affordable housing owned by the partnership or limited liability company.

(3) "Property and liability risks" includes the risk of property damage or loss sustained by an affordable housing entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the entity.

(4) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(5) "State risk manager" means the risk manager of the risk management division within the office of financial management.

**NEW SECTION. Sec. 3.** Prior to the approval of a multistate joint self-insurance program for affordable housing entities, the state risk manager shall adopt rules further clarifying the definitions of "affordable housing" and "affordable housing entity" as defined in section 2 of this act, and the conditions and limitations under which affordable housing entities may participate or be expelled from the joint self-insurance program.

**NEW SECTION. Sec. 4.** (1) The governing body of an affordable housing entity may join or form a self-insurance program together with one or more other affordable housing entities, and may jointly purchase insurance or reinsurance with one or more other affordable housing entities for property and liability risks only as permitted under this chapter. Affordable housing entities may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program may include the organization of a separate legal or administrative entity with powers delegated to the entity. The entity may be a nonprofit corporation, limited liability company, partnership, trust, or other form of entity, whether organized under the laws of this state or another state.

(3) If provided for in the organizational documents, a joint self-insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;

(e) Obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the

program, including the establishment of a reserve or fund for coverage; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(4) Every joint self-insurance program governed by this chapter must appoint the state risk manager as its attorney to receive service of, and upon whom must be served, all legal process issued against the program in this state upon causes of action arising in this state.

(a) Service upon the state risk manager as attorney constitutes service upon the program. Service upon joint self-insurance programs subject to this chapter may only occur by service upon the state risk manager. At the time of service, the plaintiff shall pay to the state risk manager a fee to be set by the state risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the state risk manager, each joint self-insurance program must designate by name and address the person to whom the state risk manager must forward legal process that is served upon him or her. The joint self-insurance program may change this person by filing a new designation.

(c) The appointment of the state risk manager as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the joint self-insurance program, and remains in effect as long as there is in force in this state any contract made by the joint self-insurance program or liabilities or duties arising from the contract.

(d) The state risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, must be sent by the state risk manager to the person designated to receive legal process by the joint self-insurance program in its most recent designation filed with the state risk manager. Proceedings must not commence against the joint self-insurance program, and the program must not be required to appear, plead, or answer, until the expiration of forty days after the date of service upon the state risk manager.

**NEW SECTION. Sec. 5.** This chapter does not apply to an affordable housing entity that:

(1) Individually self-insures for property and liability risks; or

(2) Participates in a risk pooling arrangement, including a risk retention group or a risk purchasing group, regulated under chapter 48.92 RCW, or is a captive insurer authorized in its state of domicile.

**NEW SECTION. Sec. 6.** The state risk manager shall adopt rules governing the management and operation of joint self-insurance programs for affordable housing entities that cover property or liability risks. All rules must be appropriate for the type of program and class of risk covered. The state risk manager's rules must include:

(1) Standards for the management, operation, and solvency of joint self-insurance programs, including the necessity and frequency of actuarial analyses and claims audits;

(2) Standards for claims management procedures;

(3) Standards for contracts between joint self-insurance programs and private businesses, including standards for contracts between third-party administrators and programs; and

(4) Standards that preclude housing authorities or other public entities participating in the joint self-insurance program from subsidizing, regardless of the form of subsidy, affordable housing entities that are not housing authorities or public entities. These standards do not apply to the consideration attributable to the ownership interest of a housing authority or public entity in a separate legal or administrative entity organized with respect to the program.

**NEW SECTION. Sec. 7.** Before the establishment of a joint self-insurance program covering property or liability risks by affordable housing entities, the entities must obtain the approval of the state risk manager. The entities proposing the creation of a joint self-insurance program requiring prior approval shall submit a plan of management and operation to the state risk manager that provides at least the following information:

(1) The risk or risks to be covered, including any coverage definitions, terms, conditions, and limitations;

(2) The amount and method of funding the covered risks, including the initial capital and proposed rates and projected premiums;

(3) The proposed claim reserving practices;

(4) The proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;

(5) The legal form of the program including, but not limited to, any articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating entities;

(6) The agreements with participants in the program defining the responsibilities and benefits of each participant and management;

(7) The proposed accounting, depositing, and investment practices of the program;

(8) The proposed time when actuarial analysis will be first conducted and the frequency of future actuarial analysis;

(9) A designation of the individual to whom service of process must be forwarded by the state risk manager on behalf of the program;

(10) All contracts between the program and private persons providing risk management, claims, or other administrative services;

(11) A professional analysis of the feasibility of the creation and maintenance of the program;

(12) A legal determination of the potential federal and state tax liabilities of the program; and

(13) Any other information required by rule of the state risk manager that is necessary to determine the probable financial and management success of the program or that is necessary to determine compliance with this chapter.

**NEW SECTION. Sec. 8.** An affordable housing entity may participate in a joint self-insurance program covering property or liability risks with similar affordable housing entities from other states if the program satisfies the following requirements:

(1) An ownership interest in the program is limited to some or all of the affordable housing entities of this state and affordable housing entities of other states that are provided insurance by the program;

(2) The participating affordable housing entities of this state and other states shall elect a board of directors to manage the program, a majority of whom must be affiliated with one or more of the participating affordable housing entities;

(3) The program must provide coverage through the delivery to each participating affordable housing entity of one or more written policies affecting insurance of covered risks;

(4) The program must be financed, including the payment of premiums and the contribution of initial capital, in accordance with the plan of management and operation submitted to the state risk manager in accordance with this chapter;

(5) The financial statements of the program must be audited annually by the certified public accountants for the program, and these audited financial statements must be delivered to the state risk manager not more than one hundred twenty days after the end of each fiscal year of the program;

(6) The investments of the program must be initiated only with financial institutions or broker-dealers, or both, doing business in those states in which participating affordable housing entities are

located, and these investments must be audited annually by the certified public accountants for the program;

(7) The treasurer of a multistate joint self-insurance program must be designated by resolution of the program and the treasurer must be located in the state of one of the participating entities;

(8) The participating affordable housing entities may have no contingent liabilities for covered claims, other than liabilities for unpaid premiums, if assets of the program are insufficient to cover the program's liabilities; and

(9) The program must obtain approval from the state risk manager in accordance with this chapter and must remain in compliance with this chapter, except if provided otherwise under this section.

**NEW SECTION. Sec. 9.** (1) Within one hundred twenty days of receipt of a plan of management and operation, the state risk manager shall either approve or disapprove of the formation of the joint self-insurance program after reviewing the plan to determine whether the proposed program complies with this chapter and all rules adopted in accordance with this chapter.

(2) If the state risk manager denies a request for approval, the state risk manager shall specify in detail the reasons for denial and the manner in which the program fails to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

(3) If the state risk manager determines that a joint self-insurance program covering property or liability risks is in violation of this chapter or is operating in an unsafe financial condition, the state risk manager may issue and serve upon the program an order to cease and desist from the violation or practice.

(a) The state risk manager shall deliver the order to the appropriate entity or entities directly or mail it to the appropriate entity or entities by certified mail with return receipt requested.

(b) If the program violates the order or has not taken steps to comply with the order after the expiration of twenty days after the cease and desist order has been received by the program, the program is deemed to be operating in violation of this chapter, and the state risk manager shall notify the attorney general of the violation.

(c) After hearing or with the consent of a program governed under this chapter and in addition to or in lieu of a continuation of the cease and desist order, the state risk manager may levy a fine upon the program in an amount not less than three hundred dollars and not more than ten thousand dollars. The order levying the fine must specify the period within which the fine must be fully paid. The period within which the fines must be paid must not be less than fifteen and no more than thirty days from the date of the order. Upon failure to pay the fine when due, the state risk manager shall request the attorney general to bring a civil action on the state risk manager's behalf to collect the fine. The state risk manager shall pay any fine collected to the state treasurer for the account of the general fund.

(4) Each joint self-insurance program approved by the state risk manager shall annually file a report with the state risk manager providing:

(a) Details of any changes in the articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating affordable housing entities;

(b) Copies of all the insurance coverage documents;

(c) A description of the program structure, including participants' retention, program retention, and excess insurance limits and attachment point;

(d) An actuarial analysis;

(e) A list of contractors and service providers;

(f) The financial and loss experience of the program; and

(g) Other information as required by rule of the state risk manager.

(5) A joint self-insurance program requiring the state risk manager's approval may not engage in an act or practice that in any respect significantly differs from the management and operation plan that formed the basis for the state risk manager's approval of the program unless the program first notifies the state risk manager in writing and obtains the state risk manager's approval. The state risk manager shall approve or disapprove the proposed change within sixty days of receipt of the notice. If the state risk manager denies a requested change, the state risk manager shall specify in detail the reasons for the denial and the manner in which the program would fail to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

**NEW SECTION. Sec. 10.** (1) A joint self-insurance program may by resolution of the program designate a person having experience with investments or financial matters as treasurer of the program. The program must require a bond obtained from a surety company in an amount and under the terms and conditions that the program finds will protect against loss arising from mismanagement or malfeasance in investing and managing program funds. The program may pay the premium on the bond.

(2) All interest and earnings collected on joint self-insurance program funds belong to the program and must be deposited to the program's credit in the proper program account.

**NEW SECTION. Sec. 11.** (1) An employee or official of a participating affordable housing entity in a joint self-insurance program may not directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. An employee or official of a participating affordable housing entity in a joint self-insurance program may not accept or solicit anything of value for personal benefit or for the benefit of others under circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2) RCW 48.30.140, 48.30.150, and 48.30.157 apply to the use of insurance producers by a joint self-insurance program.

**NEW SECTION. Sec. 12.** A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapter 48.02 RCW, chapters 48.32 and 48.32A RCW, business and occupation taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to, and no exemption is provided for, insurance companies issuing policies to cover program risks, and does not apply to or provide an exemption for third-party administrators or insurance producers serving the joint self-insurance program.

**NEW SECTION. Sec. 13.** (1) The state risk manager shall establish and charge an investigation fee in an amount necessary to cover the costs for the initial review and approval of a joint self-insurance program. The fee must accompany the initial submission of the plan of operation and management.

(2) The costs of subsequent reviews and investigations must be charged to the joint self-insurance program being reviewed or investigated in accordance with the actual time and expenses incurred in the review or investigation.

(3) Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment is paid.

**NEW SECTION. Sec. 14.** (1) Any person who files reports or furnishes other information required under this title, required by the

state risk manager under the authority granted under this title, or which is useful to the state risk manager in the administration of this title, is immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the state risk manager, unless actual malice, fraud, or bad faith is shown.

(2) The state risk manager and his agents and employees are immune from liability in any civil action or suit arising from the publication of any report or bulletins or arising from dissemination of information related to the official activities of the state risk manager unless actual malice, fraud, or bad faith is shown.

(3) The immunity granted under this section is in addition to any common law or statutory privilege or immunity enjoyed by such person. This section is not intended to abrogate or modify in any way such common law or statutory privilege or immunity.

**NEW SECTION. Sec. 15.** The state risk manager shall take all steps necessary to implement this chapter on January 1, 2010.

**NEW SECTION. Sec. 16.** 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. 17.** This act takes effect January 1, 2010.

**NEW SECTION. Sec. 18.** Sections 1 through 17 of this act constitute a new chapter in Title 48 RCW.

**Sec. 19.** RCW 48.01.050 and 2003 c 248 s 1 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals that join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund are not an "insurer" under this code. Two or more local governmental entities, under any provision of law, that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding are not an "insurer" under this code. Two or more affordable housing entities that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding under chapter 48.--RCW (the new chapter created in section 18 of this act) are not an "insurer" under this code. Two or more persons engaged in the business of commercial fishing who enter into an arrangement with other such persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool are not an "insurer" under this code."

Correct the title.

Signed by Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst; McCoy; Nelson; Roach; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 27, 2009

2SSB 5676 Prime Sponsor, Committee on Ways & Means: Providing for career and technical education opportunities for middle school students. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Ways & Means.

March 25, 2009

SSB 5684 Prime Sponsor, Committee on Transportation: Addressing environmental mitigation in highway construction. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 47.01 RCW to read as follows:

(1) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and chapter 43.21C RCW, the department shall, to the greatest extent possible, consider using public land first.

(2) If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

(3) Nothing in this section shall be construed to restrict the department from meeting environmental mitigation requirements, described in subsection (1) of this section, by the purchase of credits from a wetland mitigation bank certified for the sale of such credits, including but not limited to credits for lands that were or are agricultural lands of long-term commercial significance."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

E2SSB 5688 Prime Sponsor, Committee on Ways & Means: Expanding the rights and responsibilities of state registered domestic partners. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan; Kelley; Kirby; Ormsby and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Ross and Warnick.

Referred to Committee on Ways & Means.

March 26, 2009

SSB 5704 Prime Sponsor, Committee on Government Operations & Elections: Concerning creation of a flood district by three or more counties. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 85.38.090 and 1991 c 349 s 12 are each amended to read as follows:

(1) Whenever the governing body of a special district has more than three members, the governing body shall be reduced to three members as of January 1, 1986, by eliminating the positions of those district governing body members with the shortest remaining terms of office. The remaining three governing body members shall have staggered terms with the one having the shortest remaining term having his or her position filled at the 1987 special district general election, the one with the next shortest remaining term having his or her position filled at the 1989 special district general election, and the one with the longest remaining term having his or her position filled at the 1992 special district general election. If any of these remaining three governing body members have identical remaining terms of office, the newly calculated remaining terms of these persons shall be determined by lot with the county auditor who assists the special district in its elections managing such lot procedure. The newly established terms shall be recorded by the county auditor.

(2) However, whenever five or more special districts have consolidated under chapter 85.36 RCW and the consolidated district has five members in its governing body on July 28, 1985, the consolidated district may adopt a resolution retaining a five-member governing body. At any time thereafter, such a district may adopt a resolution and reduce the size of the governing body to three members with the reduction occurring as provided in subsection (1) of this section, but the years of the effective dates shall be extended so that the reduction occurs at the next January 1st occurring after the date of the adoption of the resolution. Whenever a special district is so governed by a five-member governing body, two members shall be elected at each of two consecutive special district general elections, and one member shall be elected at the following special district general election, each to serve a six-year staggered term.

(3) Subsections (1) and (2) of this section do not apply to flood control districts that contain three or more counties.

**NEW SECTION. Sec. 2.** A new section is added to chapter 85.38 RCW to read as follows:

(1) The governing body of a flood control district that contains three or more counties must be comprised of:

(a) One member from each county contained wholly or partially within the district, as appointed by the legislative authority of each county; and

(b) One member from one city of each county contained wholly or partially within the district, as appointed by the cities of each county. If the cities of a county within the district fail to appoint a member to the governing body, the city member must be appointed by the legislative authority of the largest city in the county.

(2) If the district abuts or materially impacts tribal lands held in reserve by the federal government, or any lands within a tribe's usual and accustomed fishing area, the governing body must also include one member from each affected tribe, as nominated by the tribal leadership of each tribe and selected by the members appointed under subsection (1)(a) of this section."

Correct the title.

Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia; Springer; Upthegrove and White.

MINORITY recommendation: Do not pass. Signed by Representatives Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle; Short and Williams.

Passed to Committee on Rules for second reading.

March 25, 2009

SSB 5719 Prime Sponsor, Committee on Transportation: Modifying title and registration requirements for kit vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Dickerson; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Kristiansen; Moeller; Rolfes; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

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

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5723 Prime Sponsor, Committee on Economic Development, Trade & Innovation: Providing support for small business assistance. Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.30.530 and 1984 c 77 s 1 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with ((~~public and private community development and economic assistance agencies and shall work towards the goal of coordinating activities with such agencies to avoid duplication of services~~)) the department of community, trade, and economic development, the state board for community and technical colleges, the higher education coordinating board, the workforce training and education coordinating board, the employment security department, the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses as defined in subsection (5) of this section;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to meet needs and avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business and development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. Small business development center satellite offices may solicit and accept cash and in-kind contributions from public and private sources, including banks, to support their services.

(5) For the purposes of this section, "small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses and has either (a) fifty or fewer employees, or (b) a gross revenue of less than seven million dollars annually as reported on its most recent federal income tax return or its return filed with the department of revenue. As used in this definition, "in-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington.

(6) By December 1, 2009, the center shall provide a written report to the appropriate committees of the legislature on:

(a) Progress made with respect to the requirements in subsection (2) of this section; and

(b) New resources received by satellite offices as a result of the fund-raising authority provided in subsection (4) of this section.

**Sec. 2.** RCW 30.60.010 and 2008 c 240 s 1 are each amended to read as follows:

(1) In conducting an examination of a bank chartered under Title 30 RCW, the director shall investigate and assess the record of performance of the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community and microenterprise development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) The institution's contribution of cash or in-kind support to local or statewide organizations that provide counseling, training, financing, or other services to in-state small businesses; and

(m) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

| | |
|---|---|
| (a) Excellent performance: | 1 |
| (b) Good performance: | 2 |
| (c) Satisfactory performance: | 3 |
| (d) Inadequate performance: | 4 |
| (e) Poor performance: | 5" |

Correct the title.

Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Chase; Liias; Orcutt; Parker; Probst and Sullivan.

Referred to Committee on Ways & Means.

March 26, 2009

SSB 5725 Prime Sponsor, Committee on Health & Long-Term Care: Concerning health benefit plan coverage for organ transplants. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health benefit plan that is issued or renewed on or after January 1, 2010, and that provides coverage for organ and tissue

transplants, may not permit a separate lifetime limit on transplants of any less than three hundred fifty thousand dollars. The lifetime limit shall not apply to chronic care secondary to the transplant beginning ninety days after the date of the transplant. Benefits provided are subject to all other terms and conditions of the health benefit plan, including but not limited to any applicable coinsurances, deductibles, and copayments.

(2) "Organ transplant" means the same as defined under the applicable health benefit plan."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5731 Prime Sponsor, Senator Keiser: Distributing health plan information. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 24, 2009

SSB 5732 Prime Sponsor, Committee on Judiciary: Concerning traffic infractions for drivers whose licenses or privileges are suspended or revoked. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 46.20 RCW to read as follows:

(1)(a) A person who violates RCW 46.20.342(1)(c)(iv) in a jurisdiction that does not have a relicensing diversion program shall be provided with an abstract of his or her driving record by the court or the prosecuting attorney, in addition to a list of his or her unpaid traffic offense related fines and the contact information for each jurisdiction or collection agency to which money is owed.

(b) A fee of up to twenty dollars may be imposed by the court in addition to any fee required by the department for provision of the driving abstract.

(2)(a) Superior courts or courts of limited jurisdiction in counties or cities are authorized to participate or provide relicensing diversion programs to persons who violate RCW 46.20.342(1)(c)(iv).

(b) Eligibility for the relicensing diversion program shall be limited to violators with no more than four convictions under RCW 46.20.342(1)(c)(iv) in the ten years preceding the date of entering the relicensing diversion program, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court. People subject to arrest under a warrant are not eligible for the diversion program.

(c) The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed, or by the court after charges are filed.

(d) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation of RCW 46.20.342(1)(c)(iv) may not participate in the diversion program under this section.

(e) A relicensing diversion program that is structured to occur after charges are filed may charge participants a one-time fee of up to one hundred dollars, which is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used to support administration of the program. The fee of up to one hundred dollars shall be included in the total to be paid by the participant in the relicensing diversion program.

(3) A relicensing diversion program shall be designed to assist suspended drivers to regain their license and insurance and pay outstanding fines.

(4)(a) Counties and cities that operate relicensing diversion programs shall, subject to available funds, provide information to the administrative office of the courts on an annual basis regarding the eligibility criteria used for the program, the number of referrals from law enforcement, the number of participants accepted into the program, the number of participants who regain their driver's license and insurance, the total amount of fines collected, the costs associated with the program, and other information as determined by the office.

(b) The administrative office of the courts is directed, subject to available funds, to compile and analyze the data required to be submitted in this section and develop recommendations for a best practices model for relicensing diversion programs."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Driscoll; Eddy; Finn; Johnson; Klippert; Morris; Rolfes; Sells; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Cox; Ericksen; Herrera; Kristiansen and Moeller.

Passed to Committee on Rules for second reading.

March 27, 2009

E2SSB 5735 Prime Sponsor, Committee on Ways & Means: Reducing greenhouse gas emissions. Reported by Committee on Ecology & Parks

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** FINDINGS. The legislature finds that Washington should maintain its leadership on climate change by continuing Washington's participation in the development of any federal or regional programs to reduce greenhouse gas emissions.

The legislature finds that by continuing its participation in the development of federal and regional programs to reduce greenhouse gas emissions, Washington maximizes its ability to influence and shape those programs so that they may reflect Washington's emissions portfolio, including the state's hydroelectric system, aid Washington's forest resources and agricultural industries, reduce

Washington's expenditures on imported fuels, and create a strong economy.

The legislature further finds that by continuing Washington's participation in the development of federal and regional programs to reduce greenhouse gas emissions, Washington has the opportunity to protect Washington families and small businesses from undue financial impacts arising from the transition to a clean energy future, to protect Washington's economy from disadvantages resulting from competition with industries that do not participate in carbon control efforts, and provide appropriate credit for those businesses that have taken early actions to reduce greenhouse gas emissions.

The legislature further finds that well-designed climate policies should mitigate any impacts on the cost and affordability of food, housing, energy, transportation, and other routine expenses on low and moderate-income people, and ensure that economic benefits are available to both urban and rural communities, and to traditionally underserved communities.

The legislature further finds the continued efforts to reduce greenhouse gases in the transportation sector through the continued development of alternative fuels, improved vehicle technologies, and providing choices that reduce overall vehicle miles traveled to be critical steps in creating jobs, fostering economic growth, and reducing our reliance on foreign petroleum-based transportation fuels.

**NEW SECTION. Sec. 2.** NATIONAL AND REGIONAL GREENHOUSE GAS REDUCTION PROGRAMS. (1) The office of the governor and the department are directed to represent the state's interests in the development of a national program to reduce greenhouse gas emissions. As part of this effort, the department is directed to continue to participate in the western climate initiative to develop a regional program to reduce greenhouse gas emissions. This regional program must be used to influence the national program to reduce greenhouse gas emissions.

(2) In order to provide needed information to the legislature, government agencies, and those persons who are responsible for significant emissions of greenhouse gases so that they may effectively plan for the long-term emissions reductions under RCW 70.235.020, the department shall develop:

(a) Its best estimate of emissions levels in 2012 for persons that the department reasonably believes emit twenty-five thousand metric tons of carbon dioxide equivalent or greater each year; and

(b) The trajectory of emissions reductions necessary to meet the 2020 requirement of reducing the state's greenhouse gas emissions to 1990 levels.

(3) The department shall develop the estimated 2012 emissions levels and the 2020 reduction trajectories in consultation with business and other interested stakeholders by December 15, 2009. The reduction trajectories must reflect the department's best estimate of each person's proportionate share of the 2020 reductions and must consider each person's use of industry best practices and of fuels that are either carbon neutral or that do not emit greenhouse gases. Consideration may be given to industries whose processes are inherently energy intensive.

(4) The department shall provide each person with its estimate of the person's 2012 emissions levels and the 2020 reduction trajectory as soon as they are available, but no later than December 15, 2009. Each person or groups of persons representing a sector of Washington's economy may recommend strategies or actions to the department that they believe would achieve the needed reductions. The recommendations must be provided to the department by June 15, 2010.

(5) The department shall provide a report to the legislature by December 31, 2010, that includes the 2012 emissions estimates, the 2020 reduction trajectories, and the strategies and actions, including complementary policies that collectively will achieve the state's 2020 emissions reduction in RCW 70.235.020. The report must also include a description of any additional authority that is needed to implement the identified strategies or actions.

(6) For purposes of this section, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood byproducts, including pulping liquor, and wood residuals may not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

**NEW SECTION. Sec. 3.** ACCOUNTABILITY. The governor shall designate a currently employed full-time equivalent person as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate change initiatives must coordinate with this designee. This position must be funded from current full-time equivalent allocations without increasing budgets or staffing levels. If duties must be shifted in the agency, they must be shifted to current full-time equivalent allocations.

**NEW SECTION. Sec. 4.** FORESTRY OFFSET POLICY. The department, in consultation with the department of natural resources and the forest carbon working group, shall develop recommendations for the state's policy for forestry offset projects within Washington. The agencies and the forest carbon working group must use the 2008 report of the forest carbon working group as the starting point in developing the policy. The final policy must be submitted to the legislature by December 31, 2010. The policy recommendations must address:

(1) Specific standards and guidelines that will support carbon accounting in managed forests participating in an offset program;

(2) Recommendations on how any carbon that is reduced or sequestered by a forestry offset project may be eligible for an offset credit available to coal-fired power plants under section 7 of this act, and within regional and federal climate policies;

(3) Recognition of management activities that increase carbon stocks including, but not limited to, thinning, lengthening rotations, increased retention of trees after harvest, fertilization, genetics, timber stand improvement, fire management, and specific site class and productivity of a managed forest;

(4) Specific standards and guidelines to support wood products accounting, recognizing that carbon is stored in products after trees are harvested, including the use of the one hundred year method which estimates the amount of carbon stored in the wood products that are projected to remain in use over one hundred years;

(5) Guidelines on how transfer of development rights or on-site cluster development projects may be used to create forestry offset projects;

(6) Guidelines on how forestry offset projects and forestry financial incentive programs can work together so that Washington's forest landowners will not be disadvantaged in comparison to other jurisdictions participating in a national or regional cap and trade program;

(7) How to verify or certify carbon stocks in a manner that will not be administratively burdensome; and

(8) Specific standards for how landowners who are no longer able or willing to meet their offset obligations can opt out of the program. The specific standards must require the landowner to procure other allowances or offsets equal to the offsets issued under the management plan for any offsets they have sold and surrender those offsets and any unsold offsets to the state.

**NEW SECTION. Sec. 5.** FINANCIAL INCENTIVES FOR FORESTRY. The department of ecology, in consultation with the department of natural resources and the forest carbon working group, shall develop and deliver to the legislature by December 31, 2010, recommendations for financial incentives for forestry and forest products that will recognize and encourage forest land management and use of forest products that will maintain or increase carbon sequestration, including, but not limited to:

(1) Thinning, lengthening of rotations, increased retention of trees at harvest, fertilization, genetics, timber stand improvement, and fire management;

(2) Production of wood products while maintaining or increasing carbon stocks on the ground; and

(3) Retention of high carbon stocks where there is no obligation to retain such stocks.

**NEW SECTION. Sec. 6.** AGRICULTURAL OFFSET POLICY. The department, in consultation with Washington State University, the department of agriculture, and the agriculture carbon working group shall develop recommendations for agricultural offset projects within Washington. The agencies and the agricultural carbon working group must use the 2008 report of the agricultural carbon working group as the starting point in developing the policy. The final recommendations of the agriculture carbon working group must be submitted to the legislature by December 31, 2010. The policy recommendations must address:

(1) A process and timeline to survey, catalog, and map Washington soils in a manner that describes the carbon soil sequestration level of the soils;

(2) Activities that would increase carbon sequestration in soils and therefore potentially qualify as offset projects; and

(3) Recommendations on how any carbon that is reduced or sequestered by an agricultural offset project may be eligible for an offset credit available to coal-fired power plants under section 7 of this act, and within regional and federal climate policies.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.94 RCW to read as follows:

STANDARDS FOR COAL-FIRED POWER PLANTS. (1) This section only applies to coal-fired power plants within Washington that burn over one million tons of coal per year.

(2) By 2015, coal-fired power plants must reduce emissions of greenhouse gases by one million metric tons unless the state is participating in a national or regional cap and trade program by or during 2012 that covers the emissions from these plants.

(3) The department shall negotiate and implement a compliance agreement with the coal-fired power plants covered by this section that describes how the required emissions reduction will be accomplished. The compliance agreement may include, but is not limited to, measures such as the substitution of biomass and other renewable resources for more carbon-intensive fuels as well as the limited use of offset projects. No more than forty-nine percent of the total emissions reductions from the coal-fired power plants covered by this section may be satisfied with offsets. The department shall report to the legislature on the status and content of the compliance agreement by December 31, 2010.

(4)(a) If an order or approval is required as a result of the reductions required under subsection (2) of this section, the department shall issue the order or approval within sixty days of receipt of a complete application that demonstrates to the department's satisfaction that the coal-fired power plant will achieve the emissions reduction required by this section.

(b) Within thirty days after issuing an order or approval, the department must submit to the legislature notice of the issuance of an order or approval and the findings that led to the issuance of the order or approval. The department must also post the notice of the issuance of an order or approval and the findings that led to the issuance of the order or approval on their department web site.

(5) If a coal-fired power plant subject to this section has begun to reduce its emissions as a result of this requirement and the state subsequently participates in a national or regional cap and trade program, the state shall advocate for appropriate credit to be given for these early reductions.

(6) If the compliance agreement under this section requires substitution of biomass or other renewable resources for more carbon intensive fuels, the substitution does not constitute an upgrade as defined in RCW 80.80.010.

**NEW SECTION. Sec. 8.** A new section is added to chapter 47.38 RCW to read as follows:

ALTERNATIVE FUELS CORRIDOR PILOT. (1) As a necessary and desirable step to encourage public and private investment in both electric vehicle infrastructure and alternative fuel distribution infrastructure, the legislature authorizes an alternative fuels corridor pilot project capable of supporting electric vehicle charging and battery exchange technologies, and providing alternative fuel distribution sites.

(2) To the extent permitted under federal programs, rules, or law, the department of transportation shall pursue partnership agreements with other public and private entities for the use of land and facilities along state routes and within interstate highway rights-of-way for an alternative fuels corridor pilot project. The department of transportation shall strive to have the partnership agreement in place by June 30, 2010. At a minimum, the pilot project must:

(a) Limit renewable fuel and vehicle technology offerings to those with a forecasted demand over the next fifteen years and approved by the department of transportation;

(b) Ensure that a pilot project site does not compete with existing retail businesses in the same geographic area for the provision of the same refueling services, recharging technologies, or other retail commercial activities;

(c) Provide existing truck stop operators and retail truck refueling businesses with an absolute right of first refusal over the offering of refueling and recharging services to class six trucks with a maximum gross vehicle weight of twenty-six thousand pounds within the same geographic area identified for a possible pilot project site;

(d) Reach agreement with the department of services for the blind ensuring that any activities at host sites do not materially affect the revenues forecasted from their vending operations at each site;

(e) Regulate the internal rate of return from the partnership, including provisions to reduce or eliminate the level of state support once the partnership attains economic self-sufficiency;

(f) Be limited to not more than five locations on state-owned land within federal interstate rights-of-way or state highway rights-of-way in Washington; and

(g) Be limited in duration to a term of years reasonably necessary for the partnership to recover the cost of capital investments, plus the regulated internal rate of return.

(3) The department of transportation is not responsible for providing capital equipment or operating refueling or recharging services. The department of transportation must provide periodic status reports on the pilot project to the office of financial management and the relevant standing committees of the legislature at least every biennium.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.19 RCW to read as follows:

ELECTRIFICATION OF THE WEST COAST INTERSTATE. (1) The office of the governor, in consultation with the department of community, trade, and economic development, the department of ecology, the department of general administration, the department of transportation, and Washington State University, shall develop a project for the electrification of the west coast interstate and associated metropolitan centers.

(2) The project should be developed in collaboration with representatives of Oregon and California, the federal government, and the private sector, as appropriate.

(3) The state shall seek federal funds for purchasing electric vehicles and the installation of public infrastructure for electric and other high-efficiency, zero or low-carbon vehicles. The department of ecology shall also seek funds to expand the network of truck stop electrification facilities and port electrification facilities.

**Sec. 10.** RCW 47.80.030 and 2005 c 328 s 2 are each amended to read as follows:

(1) Each regional transportation planning organization shall develop in cooperation with the department of transportation, providers of public transportation and high capacity transportation, ports, and local governments within the region, adopt, and periodically update a regional transportation plan that:

(a) Is based on a least cost planning methodology that identifies the most cost-effective facilities, services, and programs;

(b) Identifies existing or planned transportation facilities, services, and programs, including but not limited to major roadways including state highways and regional arterials, transit and nonmotorized services and facilities, multimodal and intermodal facilities, marine ports and airports, railroads, and noncapital programs including transportation demand management that should function as an integrated regional transportation system, giving emphasis to those facilities, services, and programs that exhibit one or more of the following characteristics:

(i) Crosses member county lines;

(ii) Is or will be used by a significant number of people who live or work outside the county in which the facility, service, or project is located;

(iii) Significant impacts are expected to be felt in more than one county;

(iv) Potentially adverse impacts of the facility, service, program, or project can be better avoided or mitigated through adherence to regional policies;

(v) Transportation needs addressed by a project have been identified by the regional transportation planning process and the remedy is deemed to have regional significance; and

(vi) Provides for system continuity;

(c) Establishes level of service standards for state highways and state ferry routes, with the exception of transportation facilities of statewide significance as defined in RCW 47.06.140. These regionally established level of service standards for state highways and state ferries shall be developed jointly with the department of transportation, to encourage consistency across jurisdictions. In establishing level of service standards for state highways and state ferries, consideration shall be given for the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local commuters using state facilities;

(d) Includes a financial plan demonstrating how the regional transportation plan can be implemented, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques to finance needed facilities, services, and programs;

(e) Assesses regional development patterns, capital investment and other measures necessary to:

(i) Ensure the preservation of the existing regional transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit, railroad systems and corridors, and nonmotorized facilities; and

(ii) Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods;

(f) Sets forth a proposed regional transportation approach, including capital investments, service improvements, programs, and transportation demand management measures to guide the development of the integrated, multimodal regional transportation system. For regional growth centers, the approach must address transportation concurrency strategies required under RCW 36.70A.070 and include a measurement of vehicle level of service for off-peak periods and total multimodal capacity for peak periods; and

(g) Where appropriate, sets forth the relationship of high capacity transportation providers and other public transit providers with regard to responsibility for, and the coordination between, services and facilities.

(2) Regional transportation planning organizations encompassing at least one county planning under RCW 36.70A.040 with a population greater than two hundred forty-five thousand must adopt a regional transportation plan for those counties that implement the goals to reduce annual per capita vehicle miles traveled under RCW 47.01.440.

(3) The organization shall review the regional transportation plan biennially for currency and forward the adopted plan along with documentation of the biennial review to the state department of transportation.

(((~~(3)~~))) (4) All transportation projects, programs, and transportation demand management measures within the region that have an impact upon regional facilities or services must be consistent with the plan and with the adopted regional growth and transportation strategies.

(5) In satisfying the requirements of subsections (2) and (3) of this section, the organization shall review and document consistency with locally adopted comprehensive plans of all jurisdictions fully planning under chapter 36.70A RCW within the boundary of the organization and shall identify any potential conflicts between the locally adopted comprehensive plans and regional efforts to reduce per capital vehicle miles.

**Sec. 11.** RCW 43.19.648 and 2007 c 348 s 202 are each amended to read as follows:

AGGREGATE PURCHASING OF ELECTRIC VEHICLES. (1) Effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of community, trade, and economic development pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) The department of general administration is directed to work with California, Oregon, other states, federal agencies, local governments, and private fleet owners to encourage aggregate purchasing of electric vehicles to the maximum extent possible.

(3) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are

replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

**NEW SECTION. Sec. 12.** TRIBAL GOVERNMENTS. (1) The department must consult with tribal governments upon request on elements of the state's climate change program that may impact tribal governments, such as their voluntary development of offset projects.

(2) Nothing in this chapter is intended to expand state authority over Indian country as that term is defined in 18 U.S.C. **Sec.** 1151.

**NEW SECTION. Sec. 13.** Captions used in this act are not any part of the law.

**NEW SECTION. Sec. 14.** Sections 1 through 4 and 6 of this act are each added to chapter 70.235 RCW.

**NEW SECTION. Sec. 15.** 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."

Correct the title.

Signed by Representatives Upthegrove, Chair; Rolfes, Vice Chair; Chase; Dickerson; Dunshee; Eddy; Finn; Hudgins and Morris.

MINORITY recommendation: Do not pass. Signed by Representatives Short, Ranking Minority Member; Kretz; Kristiansen; Orcutt and Shea.

Referred to Committee on Ways & Means.

March 26, 2009

ESSB 5746 Prime Sponsor, Committee on Human Services & Corrections: Modifying sentencing provisions for juveniles adjudicated of certain crimes. Reported by Committee on Human Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through ((~~13.34.170~~)) 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age((~~: PROVIDED, That~~)). If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters((~~: PROVIDED FURTHER, That~~)). The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection((~~: PROVIDED FURTHER, That~~)). Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(E)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (E) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of

the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 2.** RCW 13.40.020 and 2004 c 120 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent,

and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(17) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(18) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(21) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(22) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(23) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(24) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(25) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(26) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(27) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(28) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(29) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(30) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec. 3.** RCW 13.40.110 and 1997 c 338 s 20 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when:

(a) The respondent is ((~~fifteen,~~)) sixteen((~~,~~)) or seventeen years of age and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;

(b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree; or

(c) The information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(((~~(2)~~))) (3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(((~~(3)~~))) (4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

**Sec. 4.** RCW 13.40.308 and 2007 c 199 s 15 are each amended to read as follows:

(1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than ((~~five days of home detention~~)) three months of community supervision, forty-five hours of community restitution, ((~~and a two hundred dollar fine~~)) and a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to

electronic monitoring where available. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The court may impose a fine, but such fine shall not exceed seventy-five dollars;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to ((~~[a]~~)) a standard range sentence that includes six months of community supervision, no less than ten days of detention, ninety hours of community restitution, and a ((~~four hundred dollar~~)) fine not exceeding one hundred fifty dollars; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks ((~~of confinement, seven days of home detention~~)) commitment to the juvenile rehabilitation administration, four months of parole supervision, ninety hours of community restitution, and a ((~~four hundred dollar~~)) fine not exceeding one hundred fifty dollars.

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen vehicle as defined under RCW 9A.56.068, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes ((~~either: (i) No less than five days of home detention and~~)) no less than three months of community supervision, forty-five hours of community restitution((~~; or (ii) no home detention and ninety hours of community restitution~~)), a fine not exceeding seventy-five dollars, and either ninety hours of community restitution or a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to ((~~[a]~~)) a standard range sentence that includes no less than six months of community supervision, no less than ten days of detention, ninety hours of community restitution, and a ((~~four hundred dollar~~)) fine not exceeding one hundred fifty dollars; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks ((~~of confinement, seven days of home detention~~)) commitment to the juvenile rehabilitation administration, four months of parole supervision, ninety hours of community restitution, and a ((~~four hundred dollar~~)) fine not exceeding one hundred fifty dollars.

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes ((~~either: (i) No less than one day of home detention, one~~)) three months of community supervision, ((~~and~~)) fifteen hours of community restitution((~~; or (ii) no home detention, one month of supervision, and thirty hours of community restitution~~)), and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than one day. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, ((~~two days of home detention, two~~)) three months of community supervision, thirty hours of community restitution, ((~~and~~)) a ((~~one hundred fifty dollar~~)) fine not exceeding one hundred fifty dollars, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than two days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, ((~~seven days of home detention, three~~)) six months of community supervision, forty-five hours of community restitution, ((~~and~~)) a ((~~one hundred fifty dollar~~)) fine not exceeding one hundred fifty dollars, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than seven days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available."

Correct the title.

Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Green; Morrell and O'Brien.

MINORITY recommendation: Do not pass. Signed by Representatives Dammeier, Ranking Minority Member; Klippert and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5777 Prime Sponsor, Committee on Health & Long-Term Care: Concerning the Washington state insurance pool. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.41.060 and 2008 c 217 s 47 are each amended to read as follows:

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to offer or provide the kinds of health coverage defined under this title. In addition thereto, the board shall:

(a) Designate or establish the standard health questionnaire to be used under RCW 48.41.100 and 48.43.018, including the form and content of the standard health questionnaire and the method of its application. The questionnaire must provide for an objective evaluation of an individual's health status by assigning a discreet measure, such as a system of point scoring to each individual. The questionnaire must not contain any questions related to pregnancy, and pregnancy shall not be a basis for coverage by the pool. The questionnaire shall be designed such that it is reasonably expected to identify the eight percent of persons who are the most costly to treat who are under individual coverage in health benefit plans, as defined in RCW 48.43.005, in Washington state or are covered by the pool, if applied to all such persons;

(b) Obtain from a member of the American academy of actuaries, who is independent of the board, a certification that the standard health questionnaire meets the requirements of (a) of this subsection;

(c) Approve the standard health questionnaire and any modifications needed to comply with this chapter. The standard health questionnaire shall be submitted to an actuary for certification,

modified as necessary, and approved at least every ((~~eighteen~~)) thirty-six months. The designation and approval of the standard health questionnaire by the board shall not be subject to review and approval by the commissioner. The standard health questionnaire or any modification thereto shall not be used until ninety days after public notice of the approval of the questionnaire or any modification thereto, except that the initial standard health questionnaire approved for use by the board after March 23, 2000, may be used immediately following public notice of such approval;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state individual plan rating requirements under RCW 48.44.022 and 48.46.064;

(e)(i) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year.

(ii) Self-funded multiple employer welfare arrangements are subject to assessment under this subsection only in the event that assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing assessments on these arrangements before imposing the assessment. Once the legality of the assessments has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these assessments.

(iii) If there has not been a final determination of the legality of these assessments, then beginning on the earlier of (A) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (B) April 1, 2006, the arrangement shall deposit the assessments imposed by this subsection into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the board;

(f) Issue policies of health coverage in accordance with the requirements of this chapter;

(g) Establish procedures for the administration of the premium discount provided under RCW 48.41.200(3)(a)(iii);

(h) Contract with the Washington state health care authority for the administration of the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii);

(i) Set a reasonable fee to be paid to an insurance producer licensed in Washington state for submitting an acceptable application for enrollment in the pool; and

(j) Provide certification to the commissioner when assessments will exceed the threshold level established in RCW 48.41.037.

(2) In addition thereto, the board may:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(c) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(d) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

(3) Nothing in this section shall be construed to require or authorize the adoption of rules under chapter 34.05 RCW.

**Sec. 2.** RCW 48.41.100 and 2007 c 259 s 30 are each amended to read as follows:

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

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

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

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

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

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

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

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

(c) Inmates of public institutions and those persons ((~~whose benefits are duplicated under public programs~~)) who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the

public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

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

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

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

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

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

**Sec. 3.** RCW 48.41.100 and 2008 c 317 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

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

(c) Inmates of public institutions, and those persons who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

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

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

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

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

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

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

**NEW SECTION. Sec. 4.** The board of the Washington state health insurance pool shall conduct a study of options for equitable, stable, and broad-based funding sources for the operation of the pool. The board is authorized to solicit funds to conduct the study. The board shall report its findings and recommendations to the appropriate committees of the senate and house of representatives by December 15, 2009.

**NEW SECTION. Sec. 5.** Section 2 of this act takes effect if section 4, chapter 317, Laws of 2008 is null and void on the effective date of this act; otherwise section 2 of this act is null and void.

**NEW SECTION. Sec. 6.** Section 3 of this act takes effect if section 4, chapter 317, Laws of 2008 is in effect on the effective date of this act; otherwise section 3 of this act is null and void."

Correct the title.

Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 27, 2009

SSB 5793 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Concerning a single-occupancy farm conveyance. Reported by Committee on Commerce & Labor

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

Passed to Committee on Rules for second reading.

March 23, 2009

SSB 5795 Prime Sponsor, Committee on Transportation: Modifying the use of funds from the Tacoma Narrows toll bridge account. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Sells; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5797 Prime Sponsor, Committee on Agriculture & Rural Economic Development: Regarding exemptions from solid waste handling permit requirements. Reported by Committee on General Government Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong; Blake; Crouse; Dunshee; Hudgins; Kenney; Pedersen; Sells; Short; Van De Wege and Williams.

Passed to Committee on Rules for second reading.

March 27, 2009

E2SSB 5809 Prime Sponsor, Committee on Ways & Means: Revising unemployment compensation and workforce training provisions. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(a) This is a time of great economic difficulty for the residents of Washington state;

(b) Education and training provides opportunity for unemployed workers and economically disadvantaged adults to move into living wage jobs and is of critical importance to the current and future prosperity of the residents of Washington state;

(c) Community and technical college workforce training programs, private career schools and colleges, and Washington state apprenticeship and training council-approved apprenticeship programs provide effective and efficient pathways for people to enter high-demand occupations while also meeting the needs of the economy;

(d) The identification of high-demand occupations needs to be based on reliable labor market research; and

(e) Workforce development councils are in a position to provide funding for economically disadvantaged adults and unemployed workers to access training.

(2) Consistent with the intent of the workforce investment act adult and dislocated worker program provisions of the American recovery and reinvestment act of 2009, the legislature intends that individuals who are eligible for services under the workforce investment act adult and dislocated worker programs, or are receiving or have exhausted entitlement to unemployment compensation benefits be provided the opportunity to enroll in training programs to prepare for a high-demand occupation.

**Sec. 2.** RCW 50.16.010 and 2009 c 4 s 906 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) ((~~During the 2007-2009 biennium~~)) Except as provided in (d) of this subsection, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(((~~(1)(a)~~))), shall be expended ((~~as appropriated by the legislature for the (i) cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges, and (ii) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development, and the remaining appropriation~~)) upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d)(i) During the 2007-2009 biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for: (A) The cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges; and (B) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development. The remaining appropriation may be expended as specified in (c) of this subsection.

(ii) During fiscal year 2010, no more than five million dollars of moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, may be expended as appropriated by the legislature to create incentives for education and training for individuals who are eligible for services under the workforce investment act adult or dislocated worker programs, or are receiving or have exhausted entitlement to unemployment compensation benefits and are enrolled in a training program preparing them for a high-demand occupation pursuant to sections 3 and 4 of this act. The remaining appropriation may be expended as specified in (c) of this subsection.

(4) Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

**NEW SECTION. Sec. 3.** (1) Subject to the availability of funds through March 1, 2011, funds available under section 2 of this act shall be distributed by the employment security department to workforce development councils as a match to American recovery and reinvestment act formula funds or local workforce investment act funds that workforce development councils provide specifically for the education and training of eligible individuals in high-demand occupations for the purposes identified in section 4(2) of this act.

(a) Funds used to increase capacity as described in section 4(2)(a) of this act shall receive a seventy-five percent match.

(b) Funds used to provide student financial aid described in section 4(2)(b) of this act shall receive a twenty-five percent match.

(2) The governor may direct discretionary funds made available under Title VIII of division A of the American recovery and reinvestment act of 2009 (P.L. 1115) to be used for the purposes of this section.

(3) Funds available for the purposes identified in section 4(2) of this act but not distributed under subsection (1) of this section shall be allocated to the state board for community and technical colleges March 1, 2011. The board shall only use the funds to increase capacity as described in section 4(2)(a) of this act. The board shall report to the employment security department on the use of these funds.

(4) The employment security department, in cooperation with the workforce training and education coordinating board and the state board for community and technical colleges, shall develop a set of guidelines on allowable uses for the incentive funds made available under this section. These guidelines shall emphasize training programs that expand the skills for Washington workers in order to obtain and retain jobs in high-demand industries such as those referenced in the American recovery and reinvestment act of 2009.

(5) This section expires July 1, 2011.

**NEW SECTION. Sec. 4.** (1) Consistent with the intent of the workforce investment act adult and dislocated worker program provisions of the American recovery and reinvestment act of 2009, the employment security department shall encourage an increase in education and training through grants and local plan modifications with workforce development councils. The department shall encourage workforce development councils to collaborate with other local recipients of American recovery and reinvestment act funding for the purposes of increasing training and supporting individuals who receive training. The department shall also require workforce development councils to determine the number of participants who will receive education and training in high-demand industries. The department shall require the workforce development councils to report on these efforts to accomplish the tasks described in this subsection.

(2) The employment security department shall use funds as described in section 3 of this act to encourage workforce development councils to use American recovery and reinvestment act and workforce investment act adult and dislocated worker formula resources for the following education and training purposes:

(a) To provide enrollment support or enter into contracts with the community and technical college system to increase capacity for training eligible individuals for high-demand occupations in programs on the eligible training provider list or new programs; and

(b) For the provision of individual training accounts that provide financial aid for eligible students training for high-demand occupations in programs on the eligible training provider list.

(3) American recovery and reinvestment act formula funds described in this section may not be used to replace or supplant any existing enrollments, programs, support services, or funding sources.

(4) The employment security department, in its role as fiscal agent for workforce funds available under the American recovery and reinvestment act, shall monitor and report to the governor on the use of these funds and identify specific actions that the governor or the legislature may take to ensure the state and local workforce development councils are effectively meeting the intent of this act. This shall include such reports as required by the American recovery and reinvestment act of 2009 and the governor.

(5) This section expires July 1, 2011.

**NEW SECTION. Sec. 5.** The employment security department, in collaboration with the workforce training and education coordinating board, workforce development councils, and the state board for community and technical colleges, shall submit a report to the governor and to the appropriate committees of the legislature by December 1, 2010. The report shall describe the implementation of this act, and shall include the following:

(1) The amounts of expenditures on education and training;

(2) The number of students receiving training;

(3) The types of training received by the students;

(4) Training completion and employment rates;

(5) Comparisons of preprogram and postprogram wage levels;

(6) Student demographics and institution/program demographics;

(7) Efforts made to ensure training was provided in areas that would lead to employment;

(8) Efforts to develop capacity in occupations that are of particularly high demand; and

(9) Specific enhancements made in the workforce system to ensure additional training in high-demand occupations is accessible to low-income and dislocated workers.

**NEW SECTION. Sec. 6.** A new section is added to chapter 50.22 RCW to read as follows:

The employment security department shall periodically bring together representatives of the workforce training and education coordinating board, workforce development councils, the state board for community and technical colleges, business, labor, and the legislature to review development and implementation of chapter . . ., Laws of 2009 (this act) and related programs under this chapter.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

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

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

Referred to Committee on Ways & Means.

March 26, 2009

ESB 5810 Prime Sponsor, Senator Kauffman: Concerning foreclosures on deeds of trust. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 61.24.005 and 1998 c 295 s 1 are each amended to read as follows:

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

(1) "Grantor" means a person, or its successors, who executes a deed of trust to encumber the person's interest in property as security for the performance of all or part of the borrower's obligations.

(2) "Beneficiary" means the holder of the instrument or document evidencing the obligations secured by the deed of trust, excluding persons holding the same as security for a different obligation.

(3) "Affiliate of beneficiary" means any entity which controls, is controlled by, or is under common control with a beneficiary.

(4) "Trustee" means the person designated as the trustee in the deed of trust or appointed under RCW 61.24.010(2).

(5) "Borrower" means a person or a general partner in a partnership, including a joint venture, that is liable for all or part of the obligations secured by the deed of trust under the instrument or other document that is the principal evidence of such obligations, or the person's successors if they are liable for those obligations under a written agreement with the beneficiary.

(6) "Guarantor" means any person and its successors who is not a borrower and who guarantees any of the obligations secured by a deed of trust in any written agreement other than the deed of trust.

(7) "Commercial loan" means a loan that is not made primarily for personal, family, or household purposes.

(8) "Trustee's sale" means a nonjudicial sale under a deed of trust undertaken pursuant to this chapter.

(9) "Fair value" means the value of the property encumbered by a deed of trust that is sold pursuant to a trustee's sale. This value shall be determined by the court or other appropriate adjudicator by reference to the most probable price, as of the date of the trustee's sale, which would be paid in cash or other immediately available funds, after deduction of prior liens and encumbrances with interest to the date of the trustee's sale, for which the property would sell on such date after reasonable exposure in the market under conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

(10) "Record" and "recorded" includes the appropriate registration proceedings, in the instance of registered land.

(11) "Person" means any natural person, or legal or governmental entity.

(12) "Owner-occupied" means property that is the principal residence of the borrower.

(13) "Residential real property" means property consisting solely of a single family residence, a residential condominium unit, or a residential cooperative unit.

(14) "Tenant-occupied property" means property consisting solely of residential real property that is the principal residence of a tenant subject to chapter 59.18 RCW or other building with four or fewer residential units that is the principal residence of a tenant subject to chapter 59.18 RCW.

**NEW SECTION. Sec.** 2. A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(8) until thirty days after initial contact with the borrower is made as required under (b) of this subsection or thirty days after satisfying the due diligence requirements as described in subsection (5) of this section.

(b) A beneficiary or authorized agent shall contact the borrower by letter and by telephone in order to assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure. The letter required under this subsection must be mailed in accordance with subsection (5)(a) of this section and must include the information described in subsection (5)(a) and (5)(e)(i) through (iv) of this section.

(c) During the initial contact, the beneficiary or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or authorized agent shall schedule the meeting to occur within fourteen days of the request. The assessment of the borrower's financial ability to repay the debt and a discussion of options may occur during the initial contact or at a subsequent meeting scheduled for that purpose. At the initial contact, the borrower must be provided the toll-free telephone number made available by the department to find a department-certified housing counseling agency and the toll-free numbers for the Department of Financial Institutions and the statewide civil legal aid hotline for possible assistance and referrals. (d) Any meeting under this section may occur telephonically.

(2) A notice of default issued under RCW 61.24.030(8) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1)(b) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the declaration as evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) A beneficiary's or authorized agent's loss mitigation personnel may participate by telephone during any contact required under this section.

(4) Within fourteen days after the initial contact under subsection (1) of this section, if a borrower has designated a department-certified housing counseling agency, attorney, or other advisor to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information. The beneficiary or authorized agent shall contact the designated representative for the borrower for the discussion within fourteen days after the representative is designated by the borrower. Any deed of trust modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

(5) A notice of default may be issued under RCW 61.24.030(8) if a beneficiary or authorized agent has not contacted a borrower as required under subsection (1)(b) of this section and the failure to contact the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending a first-class letter to the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the toll-free telephone number made available by the department to find a department-certified housing counseling agency, and the following information:

"You may contact the Department of Financial Institutions, the Washington State Bar Association, or the statewide civil legal aid hotline for possible assistance or referrals."

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary and secondary telephone numbers on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the information described in subsection (5)(e)(i) through (iv) of this section.

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will provide access to a live representative during business hours.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet web site, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-certified housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if any of the following occurs:

(a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent; or

(b) The borrower has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing enforcement of the deed of trust.

(7)(a) This section applies only to deeds of trust made from January 1, 2003, to December 31, 2007, inclusive, that are recorded against owner-occupied residential real property. This section does not apply to deeds of trust: (i) Securing a commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to association beneficiaries subject to chapters 64.32, 64.34, or 64.38 RCW.

(8) As used in this section:

(a) "Department" means the United States department of housing and urban development.

(b) "Seller-financed sale" means a residential real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject residential real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

**"FORECLOSURE LOSS MITIGATION FORM**

**Please select applicable option(s) below.**

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, section 1 of this act (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure").

(2) [ ] The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in section 1(5) of this act and, after waiting fourteen days after the requirements in section 1 of this act were satisfied, the beneficiary or the beneficiary's authorized agent sent to the borrower(s), by certified mail, return receipt requested, the letter required under section 1 of this act.

(3) [ ] The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

(4) [ ] Under section 1 of this act, the beneficiary or the beneficiary's authorized agent has verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing the enforcement of the deed of trust."

**NEW SECTION. Sec.** 3. A new section is added to chapter 61.24 RCW to read as follows:

If the trustee elects to foreclose the interest of any occupant of tenant-occupied property, upon posting a notice of trustee's sale under RCW 61.24.040, the trustee or its authorized agent shall post in the manner required under RCW 61.24.040(1)(e) and shall mail at the same time in an envelope addressed to the "Resident of property subject to foreclosure sale" the following notice:

"The foreclosure process has begun on this property, which may affect your right to continue to live in this property. Ninety days or more after the date of this notice, this property may be sold at foreclosure. If you are renting this property, the new property owner may either give you a new rental agreement or provide you with a sixty-day notice to vacate the property. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have."

**NEW SECTION. Sec.** 4. A new section is added to chapter 61.24 RCW to read as follows:

(1) A tenant or subtenant in possession of a residential real property at the time the property is sold in foreclosure must be given sixty days' written notice to vacate before the tenant or subtenant may be removed from the property as prescribed in chapter 59.12 RCW. Notwithstanding the notice requirement in this subsection, a tenant may be evicted for waste or nuisance in an unlawful detainer action under chapter 59.12 RCW.

(2) This section does not prohibit the new owner of a property purchased pursuant to a trustee's sale from negotiating a new purchase or rental agreement with a tenant or subtenant.

(3) This section does not apply if the borrower or grantor remains on the property as a tenant, subtenant, or occupant.

**NEW SECTION. Sec.** 5. Sections 3 and 4 of this act apply only to the foreclosure of tenant-occupied property.

**NEW SECTION. Sec.** 6. A new section is added to chapter 61.24 RCW to read as follows:

(1) The failure of the borrower or grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

(a) Common law fraud or misrepresentation;

(b) A violation of Title 19 RCW; or

(c) Failure of the trustee to materially comply with the provisions of this chapter.

(2) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within two years from the date of the foreclosure sale or within the applicable statute of limitations for such claim, whichever expires earlier;

(b) The claim may not seek any remedy at law or in equity other than monetary damages;

(c) The claim may not affect in any way the validity or finality of the foreclosure sale or a subsequent transfer of the property;

(d) A borrower or grantor who files such a claim is prohibited from recording a lis pendens or any other document purporting to create a similar effect, related to the real property foreclosed upon;

(e) The claim may not operate in any way to encumber or cloud the title to the property that was subject to the foreclosure sale, except to the extent that a judgment on the claim in favor of the borrower or grantor may, consistent with RCW 4.56.190, become a judgment lien on real property then owned by the judgment debtor; and

(f) The relief that may be granted for judgment upon the claim is limited to actual damages. However, if the borrower or grantor brings in the same civil action a claim for violation of chapter 19.86 RCW, arising out of the same alleged facts, relief under chapter 19.86 RCW is limited to actual damages, treble damages as provided for in

RCW 19.86.090, and the costs of suit, including a reasonable attorney's fee.

(4) This section applies only to foreclosures of owner-occupied residential real property.

(5) This section does not apply to the foreclosure of a deed of trust used to secure a commercial loan.

**Sec.** 7. RCW 61.24.010 and 2008 c 153 s 1 are each amended to read as follows:

(1) The trustee of a deed of trust under this chapter shall be:

(a) Any domestic corporation incorporated under Title 23B, 30, 31, 32, or 33 RCW of which at least one officer is a Washington resident; or

(b) Any title insurance company authorized to insure title to real property under the laws of this state, or ((~~its agents~~)) any title insurance agent licensed under chapter 48.17 RCW; or

(c) Any attorney who is an active member of the Washington state bar association at the time the attorney is named trustee; or

(d) Any professional corporation incorporated under chapter 18.100 RCW, any professional limited liability company formed under chapter 25.15 RCW, any general partnership, including limited liability partnerships, formed under chapter 25.04 RCW, all of whose shareholders, members, or partners, respectively, are either licensed attorneys or entities, provided all of the owners of those entities are licensed attorneys, or any domestic corporation wholly owned by any of the entities under this subsection (1)(d); or

(e) Any agency or instrumentality of the United States government; or

(f) Any national bank, savings bank, or savings and loan association chartered under the laws of the United States.

(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Only upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.

(3) The trustee or successor trustee shall have no fiduciary duty or fiduciary obligation to the grantor or other persons having an interest in the property subject to the deed of trust.

(4) ((~~The trustee or successor trustee shall act impartially between the borrower, grantor, and beneficiary.~~)) The trustee or successor trustee has a duty of good faith to the borrower, beneficiary, and grantor.

**Sec.** 8. RCW 61.24.030 and 2008 c 153 s 2 and 2008 c 108 s 22 are each reenacted and amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address; and

(7)(a) That, for residential real property, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the owner of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

(b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.

(c) This subsection (7) does not apply to association beneficiaries subject to chapters 64.32, 64.34, or 64.38 RCW.

((~~(7)~~)) (8) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;

(c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) A statement that failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale,

and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;

(j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground; ((~~and~~))

(k) In the event the property secured by the deed of trust is owner-occupied residential real property, a statement, prominently set out at the beginning of the notice, which shall state as follows:

"You should take care to protect your interest in your home. This notice of default (your failure to pay) is the first step in a process that could result in you losing your home. You should carefully review your options. For example:

Can you pay and stop the foreclosure process?

Do you dispute the failure to pay?

Can you sell your property to preserve your equity?

Are you able to refinance this loan or obligation with a new loan or obligation from another lender with payments, terms, and fees that are more affordable?

Do you qualify for any government or private homeowner assistance programs?

Do you know if filing for bankruptcy is an option? What are the pros and cons of doing so?

Do not ignore this notice; because if you do nothing, you could lose your home at a foreclosure sale. (No foreclosure sale can be held any sooner than ninety days after a notice of sale is issued and a notice of sale cannot be issued until thirty days after this notice.) Also, if you do nothing to pay what you owe, be careful of people who claim they can help you. There are many individuals and businesses that watch for the notices of sale in order to unfairly profit as a result of borrowers' distress.

You may feel you need help understanding what to do. There are a number of professional resources available, including home loan counselors and attorneys, who may assist you. Many legal services are lower-cost or even free, depending on your ability to pay. If you desire legal help in understanding your options or handling this default, you may obtain a referral (at no charge) by contacting the county bar association in the county where your home is located. These legal referral services also provide information about lower-cost or free legal services for those who qualify. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals." and;

(l) In the event the property secured by the deed of trust is residential real property, the name and address of the owner of any promissory notes or other obligations secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust.

**Sec.** 9. RCW 61.24.040 and 2008 c 153 s 3 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ninety days before the sale, the trustee shall:

(a) Record a notice in the form described in ((~~RCW 61.24.040(1)~~))(f) of this subsection in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

(i) The borrower and grantor;

(ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~))(f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~)) (f) of this subsection to be transmitted by both first-class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in ((~~RCW 61.24.040(1)~~)) (f) of this subsection to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property;

(f) The notice shall be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . . day of . . . . . ., . . ., at the hour of . . . . o'clock . . . . M. at . . . . . [street address and location if

inside a building] in the City of . . . . . ., State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of . . . . . ., State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property]

which is subject to that certain Deed of Trust dated . . . . . ., . . ., recorded . . . . . ., . . ., under Auditor's File No. . . . ., records of . . . . . County, Washington, from . . . . . ., as Grantor, to . . . . . ., as Trustee, to secure an obligation in favor of . . . . . ., as Beneficiary, the beneficial interest in which was assigned by . . . . . ., under an Assignment recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust.

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal $ . . . . . ., together with interest as provided in the note or other instrument secured from the . . . . day of . . . . . ., . . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . day of . . . . . ., . . . The default(s) referred to in paragraph III must be cured by the . . . . day of . . . . . ., . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the . . . . day of . . . . . ., . . ., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated any time after the . . . . day of . . . . . ., . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Borrower and Grantor at the following addresses:

.....
.....
.....

by both first-class and certified mail on the . . . . day of . . . . . ., . . ., proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the . . . . day of . . . . . ., . . ., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

[Add Part X to this notice if applicable under RCW 61.24.040(9)]

.....
..... , Trustee
.....
..... ] Address
.....

[Acknowledgment]

(2) In addition to providing the borrower and grantor the notice of sale described in ((~~RCW 61.24.040~~)) subsection (1)(f) of this section, the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE

Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . . ., the Beneficiary of your Deed of Trust and owner of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the . . . . day of . . . . . ., . . .

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the . . . . day of . . . . . ., . . . [11 days before the sale date]. To date, these arrears and costs are as follows:

| | Currently due to reinstate on . . . . . | Estimated amount that will be due to reinstate on . . . . .(11 days before the date set for sale) |
|---|---|---|
| Delinquent payments from . . . . . ., . . ., in the amount of $ . . . ./mo.: | $ . . . . | $ . . . . |
| Late charges in the total amount of: | $ . . . . | $ . . . . |
| | | Estimated Amounts |
| Attorneys' fees: | $ . . . . | $ . . . . |
| Trustee's fee: | $ . . . . | $ . . . . |
| Trustee's expenses: (Itemization) | | |
| Title report | $ . . . . | $ . . . . |
| Recording fees | $ . . . . | $ . . . . |
| Service/Posting of Notices | $ . . . . | $ . . . . |
| Postage/Copying expense | $ . . . . | $ . . . . |
| Publication | $ . . . . | $ . . . . |
| Telephone charges | $ . . . . | $ . . . . |
| Inspection fees | $ . . . . | $ . . . . |
| . . . . . | $ . . . . | $ . . . . |
| . . . . . | $ . . . . | $ . . . . |
| TOTALS | $ . . . . | $ . . . . |

To pay off the entire obligation secured by your Deed of Trust as of the . . . . . day of . . . . . you must pay a total of $. . . . . in principal, $. . . . . in interest, plus other costs and advances estimated to date in the amount of $. . . . . From and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

| Default | Description of Action Required to Cure and Documentation Necessary to Show Cure |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . day of . . . . . ., . . . [11 days before the sale date], by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: . . . . . ., whose address is . . . . . ., telephone ( ) . . . . . AFTER THE . . . . DAY OF . . . . . ., . . ., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ten days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance ($ . . . . . .) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME: _____

ADDRESS: _____

_____

_____

TELEPHONE NUMBER: _____

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(3) In addition, the trustee shall cause a copy of the notice of sale described in ((~~RCW 61.24.040~~)) subsection (1)(f) of this section (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale;

(4) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(5) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(6) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of one hundred twenty days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in ((~~RCW 61.24.040~~)) subsection (1)(b)(i) and (ii) of this section to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in ((~~RCW 61.24.040~~)) subsection (1)(b), (c), (d), and (e) of this section and publishing a copy of such notice once in the newspaper(s) described in ((~~RCW 61.24.040~~)) subsection (3) of this section, more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(7) The purchaser shall forthwith pay the price bid and on payment the trustee shall execute to the purchaser its deed; the deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under ((~~RCW 61.24.040~~)) subsection (1) of this section, if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(8) The sale as authorized under this chapter shall not take place less than one hundred ninety days from the date of default in any of the obligations secured;

(9) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X.

NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants ((~~and~~)) who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants ((~~and~~)) who are not tenants by summary proceedings under ((~~the unlawful detainer act,~~)) chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with section 10 of this act;

(10) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

**Sec.** 10. RCW 61.24.060 and 1998 c 295 s 8 are each amended to read as follows:

(1) The purchaser at the trustee's sale shall be entitled to possession of the property on the twentieth day following the sale, as against the borrower and grantor under the deed of trust and anyone having an interest junior to the deed of trust, including occupants ((~~and~~)) who are not tenants, who were given all of the notices to which they were entitled under this chapter. The purchaser shall also have a right to the summary proceedings to obtain possession of real property provided in chapter 59.12 RCW.

(2) If the trustee elected to foreclose the interest of any occupant or tenant, the purchaser of tenant-occupied property at the trustee's sale shall provide written notice to the occupants and tenants at the property purchased in substantially the following form:

"NOTICE: The property located at . . . . . was purchased at a trustee's sale by . . . . . on . . . . .(date).

1. If you are the previous owner or an occupant who is not a tenant of the property that was purchased, pursuant to RCW 61.24.060, the purchaser at the trustee's sale is entitled to possession of the property on . . . . . .(date), which is the twentieth day following the sale.

2. If you are a tenant or subtenant in possession of the property that was purchased, pursuant to section 4 of this act, the purchaser at the trustee's sale may either give you a new rental agreement OR give you a written notice to vacate the property in sixty days or more before the end of the monthly rental period."

(3) The notice required in subsection (2) of this section must be given to the property's occupants and tenants by both first-class mail, and either certified or registered mail, return receipt requested.

**NEW SECTION. Sec.** 11. A new section is added to chapter 59.12 RCW to read as follows:

An unlawful detainer action, commenced as a result of a trustee's sale under chapter 61.24 RCW, must comply with the requirements of RCW 61.24.040 and 61.24.060.

**NEW SECTION. Sec.** 12. 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.** 13. Section 2 of this act expires December 31, 2012."

Correct the title.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

ESSB 5840 Prime Sponsor, Committee on Environment, Water & Energy: Modifying the energy independence act. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3) "Biomass energy" includes: (a) Byproducts of pulping and wood manufacturing process; (b) animal waste; (c) solid organic fuels from wood; (d) forest or field residues; (e) wooden demolition or construction debris; (f) food waste; (g) liquors derived from algae and other sources; (h) dedicated energy crops; (i) biosolids; and (j) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(4) "Commission" means the Washington state utilities and transportation commission.

(((~~(4)~~))) (5) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(((~~(5)~~))) (6) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(((~~(6)~~))) (7) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(((~~(7)~~))) (8) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(((~~(8)~~))) (9) "Department" means the department of community, trade, and economic development or its successor.

(((~~(9)~~))) (10) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than ((~~five~~)) seven megawatts.

(((~~(10)~~))) (11) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water, except as provided in (b) and (d) of this subsection, that commences operation after March 31, 1999, where((~~: (i)~~)) the facility is located ((~~in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services~~)) within the geographic boundary of the western electricity coordinating council or its successor entity except as provided in (c) of this subsection; ((~~or~~))

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in water supply pipes, irrigation pipes ((~~and~~)), or canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or ((~~impoundments~~)) an increase in the amount of water storage;

(c)(i) Electricity from a biomass energy powered generation facility owned by a qualifying utility and located in Washington as of the effective date of this section; (ii) or electricity from a biomass energy powered generation facility located in Washington that commenced operation after March 31, 1999; or (iii) a maximum of twenty-five percent of the electricity from a biomass energy powered generation facility located in Washington and in operation as of March 31, 1999, that is not owned by a qualifying utility and is delivered to a qualifying utility; or

(d) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output to hydroelectric generation projects whose energy output is marketed by the Bonneville power administration where the additional generation does not result in new water diversions or an increase in the amount of water storage.

(((~~(11)~~))) (12) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(((~~(12)~~))) (13) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(((~~(13)~~))) (14) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases. For an anaerobic digester, its nonpower attributes may be separated into avoided emissions of carbon dioxide, and other greenhouse gases, and into renewable energy credits.

(((~~(14)~~))) (15) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(((~~(15)~~))) (16) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(((~~(16)~~))) (17) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(((~~(17)~~))) (18) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(((~~(18)~~))) (19) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth ((~~or first-growth~~)) forests where the clearing occurred after December 7, 2006; ((~~and~~)) or (i) biomass energy ((~~based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor byproduct from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste~~)).

(((~~(19)~~))) (20) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(((~~(20)~~))) (21) "Year" means the twelve-month period commencing January 1st and ending December 31st.

**Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) ((~~Beginning~~)) By January 1, 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial acquisition target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period. A qualifying utility may not use incremental electricity produced as a result of efficiency improvements to hydroelectric generation facilities to meet its biennial conservation acquisition target if the improvements were used to meet its targets under subsection (2)(a) of this section.

(c) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility ((~~has a useful thermal energy output of no less than thirty-three percent of the total energy output~~)) is designed to have a projected overall thermal conversion efficiency of at least seventy percent. For the purposes of this section, "overall thermal conversion efficiency" means the output of electricity plus usable heat divided by fuel input. The reduction in load due to high-efficiency cogeneration shall be((~~: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii)~~)) counted towards meeting the biennial conservation target in the same manner as other production conservation savings.

(d) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(e) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least ((~~nine~~)) ten and twenty-five one-hundredths of one percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least ((~~fifteen~~)) sixteen and twenty-five one-hundredths of one percent of its load by January 1, 2020, and each year thereafter.

(b) It must be the goal of the state for each qualifying utility to use eligible renewable resources or acquire equivalent renewable energy credits or a combination of both to meet an annual renewable resource goal of at least twenty percent of its load by January 1, 2025, and each year thereafter.

(c) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(((~~(c)~~))) (d) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(((~~(d)~~))) (e) A qualifying utility with annual sales of less than two million megawatt hours is considered in compliance with an annual target in (a) of this subsection if: (i) In any given target year its load growth, measured as load served in the target year compared to the utility's annual average load served in 2010 and 2011, is less than the target in (a) of this subsection for that year; and (ii) the utility meets one hundred percent of any increase in load for that target year with eligible renewable resources or renewable energy credits.

(f) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(((~~(e)~~))) (g) The requirements of this section may be met for any given target year with renewable energy credits produced during that year, the preceding year, or the subsequent year. A qualifying utility may use renewable energy credits from an eligible renewable resource owned in whole or in part by the utility if the credits were generated within three years prior to the year for which the credits are applied to its annual renewable resource target. The renewable energy credits shall not be transferred or sold to another entity and shall be retired by the qualifying utility if not used to meet the qualifying utility's annual renewable resource target. Each renewable energy credit may be used only once to meet the requirements of this section.

((~~(f)~~)) (h) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; ((~~or~~))

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090; or

(iii) Efficiency improvements to hydroelectric generation facilities whose energy output is marketed by the Bonneville power administration that is attributable to any other utility other than the qualifying utility.

((~~(g)~~)) (i) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

((~~(h)~~)) (j)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

((~~(i)~~)) (k) A qualifying utility that acquires solar energy may count that acquisition at four times its base value, or six times its base value where the energy is produced using solar inverters and modules manufactured in Washington state.

(l) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

**Sec. 3.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read as follows:

(1) On or before June 1, 2012, and annually thereafter, each qualifying utility shall report to the department on its progress in the preceding year in meeting the targets established in RCW 19.285.040, including expected electricity savings from the biennial conservation target, expenditures on conservation, actual electricity savings results, the utility's annual load for the prior two years, the amount of megawatt-hours needed to meet the annual renewable energy target, the amount of megawatt-hours of each type of eligible renewable resource acquired, the type and amount of renewable energy credits acquired, and the percent of its total annual retail revenue requirement invested in the incremental cost of eligible renewable resources and the cost of renewable energy credits. ((~~For each year that a qualifying utility elects to demonstrate alternative compliance under RCW 19.285.040(2) (d) or (i) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section.~~)) A qualifying utility may submit its report to the department in conjunction with its annual obligations in chapter 19.29A RCW.

(2) A qualifying utility that is an investor-owned utility shall also report all information required in subsection (1) of this section to the commission, and on or before June 1, 2014, and annually thereafter, report to the commission its compliance in meeting the targets established in RCW 19.285.040. All other qualifying utilities shall also make all information required in subsection (1) of this section available to the auditor, and on or before June 1, 2014, and annually thereafter, make available to the auditor its determination of compliance in meeting the targets established in RCW 19.285.040. For each year that a qualifying utility elects to demonstrate alternative compliance under RCW 19.285.040(2) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section.

(3) A qualifying utility shall also make reports required in this section available to its customers.

**Sec. 4.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read as follows:

(1) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(2) The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to qualifying utilities that are not investor-owned utilities. Those rules include, but are not limited to, rules associated with a qualifying utility's development of conservation targets under RCW 19.285.040(1); a qualifying utility's decision to pursue alternative compliance in RCW 19.285.040(2) ((~~(d)~~)) (f) or ((~~(i)~~)) (l) or 19.285.050(1); and the format and content of reports required in RCW 19.285.070. Nothing in this subsection may be construed to restrict the rate-making authority of the commission or a qualifying utility as otherwise provided by law.

(3) The commission and department may coordinate in developing rules related to process, timelines, and documentation that are necessary for implementation of this chapter.

(4)(a) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by ((~~December 31, 2007~~)) June 30, 2010. These rules may be revised as needed to carry out the intent and purposes of this chapter.

(b) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the department shall initiate rule making to consider adopting any changes in methodologies used by the Pacific Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(c) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the commission shall initiate rule making to consider adopting any changes in methodologies used by the Pacific Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(d) Rules adopted under (b) and (c) of this subsection must be applied to the next biennial target that begins at least six months after the adoption date of the rules.

**NEW SECTION. Sec. 5.** Within existing resources, the department of community, trade, and economic development shall report to the legislature by December 1, 2009, its recommendations on how low-cost hydroelectric generation may be used to firm, shape, and integrate renewable energy resources into the northwestern electric grid for delivery to Washington residents. The report must

make recommendations on the economic and environmental benefits of using hydroelectric generation in place of fossil fuel-fired generation for integration services. The report must include results from existing studies and analyses from the Pacific Northwest electric power and conservation planning council, the Bonneville power administration, and other relevant organizations. The department of community, trade, and economic development shall also consider information and recommendations from integration service providers and users."

Correct the title.

Signed by Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Carlyle; Condotta; DeBolt; Finn; Hasegawa; Hudgins; McCune; Takko and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Haler, Assistant Ranking Minority Member; Herrera and Jacks.

Referred to Committee on General Government Appropriations.

March 27, 2009

E2SSB 5850 Prime Sponsor, Committee on Ways & Means: Protecting workers from human trafficking violations. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 1, line 13, after "H-1B" insert ", H-2A, or H-2B"

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

Referred to Committee on General Government Appropriations.

March 27, 2009

ESSB 5873 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Regarding apprenticeship utilization. Reported by Committee on Commerce & Labor

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

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

Referred to Committee on Capital Budget.

March 26, 2009

SSB 5879 Prime Sponsor, Committee on Economic Development, Trade & Innovation: Concerning entrepreneurial education and training. Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.162.020 and 2007 c 232 s 4 are each amended to read as follows:

(1) The Washington state economic development commission shall:

(((~~(1)~~))) (a) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

(((~~(2)~~))) (b) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to:

(i) Goals, objectives, and priorities for the state economic development system; ((~~identify~~))

(ii) Identification of the elements local associate development organizations must include in their countywide economic development plans; and

(iii) Review of the state system for consistency with the state comprehensive plan. In developing the state comprehensive plan for economic development, the commission shall use, but ((~~may not be~~)) is not limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

(((~~(3)~~))) (c) Establish and maintain an inventory of the programs of the state economic development system and related state programs, including education, training, and technical assistance services and programs serving entrepreneurs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs are successful or underperforming in meeting these needs and the extent to which they represent a consistent, coordinated, efficient, and integrated approach to meet such needs; and

(((~~(4)~~))) (d) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, ((~~as well as include~~)) with recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination.

(2) The commission may delegate to the executive director any of the functions of this section.

**NEW SECTION. Sec. 2.** (1) Within the appropriations provided for the Washington state economic development commission and the workforce training and education coordinating board, the commission and the board shall jointly:

(a) Create an inventory of targeted education, training, and technical assistance services and programs available in the state that provide exclusively the skills and knowledge that entrepreneurs seek. The inventory must include:

(i) A report of the numbers of individuals who have sought such services or programs, and indicators of the scale of the business ventures represented by those entrepreneurs;

(ii) A survey of those served by inventoried services and programs to solicit their views regarding the merits and limitations of the services and programs; and

(iii) Documentation of the amounts and sources of public funds provided for the services and programs, and the benefits of the services and programs;

(b) Evaluate practices from other governmental, educational, and private entities to identify best practices that yield job creation, business growth, and business expansion into new markets; and

(c) By December 1, 2009, produce a report to the appropriate committees of the legislature and the director of the department of community, trade, and economic development on the program inventory required under this section, with:

(i) Identification of both successful and underperforming programs or services, with recommendations for enhancement, consolidation, or elimination of programs or services, as appropriate;

(ii) Recommendations on best practices for meeting the needs of entrepreneurs; and

(iii) Identification of business climate concerns and regulatory barriers identified by entrepreneurs.

(2) This section expires January 1, 2010."

Correct the title.

Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Chase; Liias; Orcutt; Parker; Probst and Sullivan.

Referred to Committee on Ways & Means.

March 27, 2009

ESSB 5889 Prime Sponsor, Committee on Early Learning & K-12 Education: Providing flexibility in the education system. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.165.025 and 2004 c 20 s 3 are each amended to read as follows:

((By July 1st of each year,)) (1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. ((For the 2004-05 school year, school districts must identify the program activities to be implemented from RCW 28A.165.035 and are encouraged to implement the elements in subsections (1) through (8) of this section. Beginning in the 2005-06 school year,)) The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in ((subsections (1))) (a) through (((8))) (h) of this ((section)) subsection. The school district plan shall include the following:

(((1))) (a) District and school-level data on reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(((2))) (b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(((3))) (c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(((a))) (i) Achievement goals for the students;

(((b))) (ii) Roles of the student, parents, or guardians and teachers in the plan;

(((c))) (iii) Communication procedures regarding student accomplishment; and

(((d))) (iv) Plan reviews and adjustments processes;

(((4))) (d) How state level and classroom assessments are used to inform instruction;

(((5))) (e) How focused and intentional instructional strategies have been identified and implemented;

(((6))) (f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(((7))) (g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(((8))) (h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

**Sec. 2.** RCW 28A.165.045 and 2004 c 20 s 5 are each amended to read as follows:

A participating school district shall ((annually)) submit a program plan to the office of the superintendent of public instruction for approval to the extent required by RCW 28A.165.025. The program plan must address all of the elements in RCW 28A.165.025 and identify the program activities to be implemented from RCW 28A.165.035.

School districts achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW shall have their program approved once the program plan and activities submittal is completed.

School districts not achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW and that are not in a state or federal program of school improvement shall be subject to program approval once the plan components are reviewed by the office of the superintendent of public instruction for the purpose of receiving technical assistance in the final development of the plan.

School districts with one or more schools in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements.

**Sec. 3.** RCW 28A.210.010 and 1971 c 32 s 1 are each amended to read as follows:

The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules ((and regulations)) regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules ((and regulations)) shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall ((print and distribute the)) provide to appropriate school officials and personnel, access and notice of these rules ((and regulations)) of the state board of health ((above provided to appropriate school officials and personnel)).

Providing online access to these rules satisfies the requirements of this section. The superintendent of public instruction is required to provide this notice only when there are significant changes to the rules.

**Sec. 4.** RCW 28A.210.040 and 1990 c 33 s 189 are each amended to read as follows:

The superintendent of public instruction shall ((~~print and distribute~~)) provide access to appropriate school officials the rules ((~~and regulations~~)) adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings. Providing online access to the materials satisfies the requirements of this section.

**Sec. 5.** RCW 28A.210.080 and 2007 c 276 s 1 are each amended to read as follows:

(1) The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (a) full immunization, (b) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (c) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

(2)(a) Beginning with sixth grade entry, every public and private school in the state shall provide parents and guardians with access to information about meningococcal disease and its vaccine at the beginning of every school year. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form. The information about meningococcal disease shall include:

(i) Its causes and symptoms, how meningococcal disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide meningococcal vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of superintendent of public instruction.

(d) This subsection does not create a private right of action.

(3)(a) Beginning with sixth grade entry, every public school in the state shall provide parents and guardians with access to information about human papillomavirus disease and its vaccine at the beginning of every school year. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form. The information about human papillomavirus disease shall include:

(i) Its causes and symptoms, how human papillomavirus disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for human papillomavirus disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide human papillomavirus vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of the superintendent of public instruction.

(d) This subsection does not create a private right of action.

(4) Private schools are required by state law to notify parents that information on the human papillomavirus disease prepared by the department of health is available.

**Sec. 6.** RCW 28A.225.005 and 1992 c 205 s 201 are each amended to read as follows:

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall ((~~distribute~~)) provide access to the information at least annually. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

**Sec. 7.** RCW 28A.225.290 and 1990 1st ex.s. c 9 s 207 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and annually ((~~distribute an~~)) provide access to information ((~~booklet~~)) outlining parents' and guardians' enrollment options for their children. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

(2) ((~~Before the 1991-92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries~~)) School districts shall provide access to the information in this section to the public. Providing online access to the information satisfies the requirements of this subsection unless a parent or guardian specifically requests the information be provided in written form.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, 28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start - community college or vocational-technical institute choice program under RCW 28A.600.300 through ((~~28A.600.395~~)) 28A.600.390; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090.

**Sec. 8.** RCW 28A.225.300 and 1990 1st ex.s. c 9 s 208 are each amended to read as follows:

Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment options and interdistrict acceptance policies shall be provided to nonresidents on request. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

**Sec. 9.** RCW 28A.230.095 and 2006 c 113 s 2 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools

assessments or other strategies chosen by the district to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction. The office of the superintendent of public instruction may not require school districts to use a classroom-based assessment in social studies, the arts, and health and fitness to meet the requirements of this section and shall clearly communicate to districts their option to use other strategies chosen by the district.

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

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

**Sec. 10.** RCW 28A.230.125 and 2006 c 263 s 401 and 2006 c 115 s 6 are each reenacted and amended to read as follows:

(1) The superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

(((~~(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.~~))

**Sec. 11.** RCW 28A.300.040 and 2006 c 263 s 104 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be ((~~provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system~~)) made available online and which shall be sold at approximate actual cost of publication and distribution per volume to ((~~all other~~)) public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform such other duties as may be required by law.

**Sec. 12.** RCW 28A.300.118 and 2000 c 126 s 1 are each amended to read as follows:

(1) Beginning with the ((~~2000-01~~)) 2011-12 school year, the superintendent of public instruction shall notify senior high schools and any other public school that includes ninth grade of the names and contact information of public and private entities offering programs leading to college credit, including information about online advanced placement classes, if the superintendent has knowledge of such entities and if the cost of reporting these entities is minimal.

(2) Beginning with the ((~~2000-01~~)) 2011-12 school year, each senior high school and any other public school that includes ninth grade shall publish annually and deliver to each parent with children enrolled in ninth through twelfth grades, information concerning the entrance requirements and the availability of programs in the local area that lead to college credit, including classes such as advanced placement, running start, tech-prep, skill centers, college in the high school, and international baccalaureate programs. The information may be included with other information the school regularly mails to parents. In addition, each senior high school and any other public school that includes ninth grade shall enclose information of the names and contact information of other public or private entities offering such programs, including online advanced placement programs, to its ninth through twelfth grade students if the school has knowledge of such entities.

**Sec. 13.** RCW 28A.300.525 and 2008 c 297 s 2 are each amended to read as follows:

(1) The superintendent of public instruction shall provide an annual aggregate report to the legislature on the educational experiences and progress of students in children's administration out-of-home care. This data should be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

(2) This section is suspended until July 1, 2011.

**Sec. 14.** RCW 28A.320.165 and 2001 c 333 s 4 are each amended to read as follows:

Schools as defined in RCW 17.21.415 shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW, upon the request of the parent or guardian.

**Sec. 15.** RCW 28A.320.180 and 2007 c 396 s 11 are each amended to read as follows:

(1) Subject to funding appropriated for this purpose and beginning in the fall of 2009, school districts shall provide all high school students enrolled in the district the option of taking the mathematics college readiness test developed under RCW 28B.10.679 once at no cost to the students. Districts shall encourage, but not require, students to take the test in their junior or senior year of high school.

(2) Subject to funding appropriated for this purpose, the office of the superintendent of public instruction shall reimburse each district for the costs incurred by the district in providing students the opportunity to take the mathematics placement test.

(3) This section is suspended until July 1, 2011.

**Sec. 16.** RCW 28A.600.160 and 1998 c 225 s 2 are each amended to read as follows:

Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically request information to be provided in written form. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate. Educational pathways may include, but are not limited to, programs such as work-based learning, ((~~school-to-work transition,~~)) tech prep, ((~~vocational-technical~~)) career and technical education, running start, and preparation for technical college, community college, or university education.

**Sec. 17.** RCW 28A.655.061 and 2008 c 321 s 2 are each amended to read as follows:

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

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective

alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

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

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

(7) School districts must make available to students the following options:

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

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

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

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

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

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

(ii) Until August 31, 2008, a student's score on the mathematics portion of the ((~~preliminary scholastic assessment test (~~))PSAT((~~)~~)) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

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

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

~~(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:~~

~~(i) The student's results on the Washington assessment of student learning;~~

~~(ii) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;~~

~~(iii) Any credit deficiencies;~~

~~(iv) The student's attendance rates over the previous two years;~~

~~(v) The student's progress toward meeting state and local graduation requirements;~~

~~(vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;~~

~~(vii) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;~~

~~(viii) The alternative assessment options available to students under this section and RCW 28A.655.065;~~

~~(ix) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and~~

~~(x) Available programs offered through skill centers or community and technical colleges.~~

~~(b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.~~

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

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

**Sec. 18.** RCW 28A.655.075 and 2007 c 396 s 16 are each amended to read as follows:

(1) Within funds specifically appropriated therefor, by December 1, 2008, the superintendent of public instruction shall develop essential academic learning requirements and grade level expectations for educational technology literacy and technology fluency that identify the knowledge and skills that all public school students need to know and be able to do in the areas of technology and technology literacy. The development process shall include a review of current standards that have been developed or are used by other states and national and international technology associations. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the technology essential academic learning requirements.

(a) As used in this section, "technology literacy" means the ability to responsibly, creatively, and effectively use appropriate technology to communicate; access, collect, manage, integrate, and evaluate information; solve problems and create solutions; build and share knowledge; and improve and enhance learning in all subject areas and experiences.

(b) Technology fluency builds upon technology literacy and is demonstrated when students: Apply technology to real-world experiences; adapt to changing technologies; modify current and create new technologies; and personalize technology to meet personal needs, interests, and learning styles.

(2)(a) Within funds specifically appropriated therefor, the superintendent shall obtain or develop education technology assessments that may be administered in the elementary, middle, and high school grades to assess the essential academic learning requirements for technology. The assessments shall be designed to be classroom or project-based so that they can be embedded in classroom instruction and be administered and scored by school staff throughout the regular school year using consistent scoring criteria and procedures. By the 2010-11 school year, these assessments shall be made available to school districts for the districts' voluntary use. If a school district uses the assessments created under this section, then the school district shall notify the superintendent of public instruction of the use. The superintendent shall report annually to the legislature on the number of school districts that use the assessments each school year.

(b) Beginning December 1, 2010, and annually thereafter, the superintendent of public instruction shall provide a report to the relevant legislative committees regarding the use of the assessments.

(3) This section is suspended until July 1, 2011.

**Sec. 19.** RCW 17.21.415 and 2001 c 333 s 3 are each amended to read as follows:

(1) As used in this section, "school" means a licensed day care center or a public kindergarten or a public elementary or secondary school.

(2) A school shall provide written notification ((~~annually or upon enrollment~~)), upon request, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements of this section.

(3) A school shall establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least forty-eight hours before a pesticide application to a school facility. The notification system shall include posting of the notification in a prominent place in the main office of the school.

(4) All notifications to parents, guardians, and employees shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(a) The product name of the pesticide to be applied;

(b) The intended date and time of application;

(c) The location to which the pesticide is to be applied;

(d) The pest to be controlled; and

(e) The name and phone number of a contact person at the school.

(5) A school facility application must be made within forty-eight hours following the intended date and time stated in the notification or the notification process shall be repeated.

(6) A school shall, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under the provisions of RCW 17.21.410(1)(d).

(a) Notification signs for applications made to school grounds by school employees shall be placed at the location of the application and at each primary point of entry to the school grounds. The signs shall be a minimum of four inches by five inches and shall include the words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer shall provide the name and telephone number of a contact person at the school.

(b) Notification signs for applications made to school facilities other than school grounds shall be posted at the location of the application. The signs shall be a minimum of eight and one-half by eleven inches and shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(i) The product name of the pesticide applied;

(ii) The date and time of application;

(iii) The location to which the pesticide was applied;

(iv) The pest to be controlled; and

(v) The name and phone number of a contact person at the school.

(c) Notification signs shall be printed in colors contrasting to the background.

(d) Notification signs shall remain in place for at least twenty-four hours from the time the application is completed. In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the notification sign shall remain in place consistent with the restricted entry interval time as required by the label.

(7) A school facility application does not include the application of antimicrobial pesticides or the placement of insect or rodent baits that are not accessible to children.

(8) The prenotification requirements of this section do not apply if the school facility application is made when the school is not occupied by students for at least two consecutive days after the application.

(9) The prenotification requirements of this section do not apply to any emergency school facility application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. When an emergency school facility application is made, notification consistent with the school's notification system shall occur as soon as possible after the application. The notification shall include information consistent with subsection (6)(b) of this section.

(10) A school shall make the records of all pesticide applications to school facilities required under this chapter, including an annual summary of the records, readily accessible to interested persons.

(11) A school is not liable for the removal of signs by unauthorized persons. A school that complies with this section may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

**Sec. 20.** RCW 28A.650.015 and 2006 c 263 s 917 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

**Sec. 21.** RCW 28A.210.020 and 1971 c 32 s 2 are each amended to read as follows:

Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. Persons performing visual screening may include, but are not limited to, ophthalmologists, optometrists, or opticians who donate their professional services to schools or school districts.

**NEW SECTION. Sec. 22.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

1.1.1.1. RCW 28A.220.050 (Information on proper use of left-hand lane) and 1986 c 93 s 4;

1.1.1.2. RCW 28A.220.080 (Information on motorcycle awareness) and 2007 c 97 s 4 & 2004 c 126 s 1;

1.1.1.3. RCW 28A.220.085 (Information on driving safely among bicyclists and pedestrians) and 2008 c 125 s 4;

1.1.1.4. RCW 28A.230.092 (Washington state history and government--Course content) and 2008 c 190 s 2;

1.1.1.5. RCW 28A.230.185 (Family preservation education program) and 2005 c 491 s 2;

1.1.1.6. RCW 28A.300.412 (Washington civil liberties public education program--Report) and 2000 c 210 s 6;

1.1.1.7. RCW 28A.600.415 (Alternatives to suspension--Community service encouraged--Information provided to school districts) and 1992 c 155 s 2;

1.1.1.8. RCW 28A.625.010 (Short title) and 1995 c 335 s 107, 1990 c 33 s 513, & 1986 c 147 s 1;

1.1.1.9. RCW 28A.625.020 (Recipients--Awards) and 1991 c 255 s 1;

1.1.1.10. RCW 28A.625.030 (Washington State Christa McAuliffe award for teachers) and 1991 c 255 s 2 & 1986 c 147 s 3;

1.1.1.11. RCW 28A.625.042 (Certificates--Recognition awards) and 1994 c 279 s 4;

1.1.1.12. RCW 28A.625.050 (Rules) and 1995 c 335 s 108, 1991 c 255 s 8, 1990 c 33 s 516, 1988 c 251 s 2, & 1986 c 147 s 5;

1.1.1.13. RCW 28A.625.350 (Short title) and 1990 1st ex.s. c 10 s 1;

1.1.1.14. RCW 28A.625.360 (Excellence in teacher preparation award) and 2006 c 263 s 804 & 1990 1st ex.s. c 10 s 2;

1.1.1.15. RCW 28A.625.370 (Award for teacher educator) and 2006 c 263 s 820 & 1990 1st ex.s. c 10 s 3;

1.1.1.16. RCW 28A.625.380 (Rules) and 2006 c 263 s 821 & 1990 1st ex.s. c 10 s 4;

1.1.1.17. RCW 28A.625.390 (Educational grant--Eligibility--Award) and 2006 c 263 s 822 & 1990 1st ex.s. c 10 s 5;

1.1.1.18. RCW 28A.625.900 (Severability--1990 1st ex.s. c 10) and 1990 1st ex.s. c 10 s 10;

1.1.1.19. RCW 28A.630.045 (Local control and flexibility in assessments--Pilot project) and 2006 c 175 s 1; and

1.1.1.20. RCW 28A.630.881 (School-to-work transition project--Findings--Intent--Outreach--Technical assistance) and 1997 c 58 s 304.

**NEW SECTION. Sec. 23.** Sections 13, 15, and 18 of this act expire July 1, 2011."

Correct the title.

Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Education Appropriations.

March 26, 2009

SSB 5891 Prime Sponsor, Committee on Health & Long-Term Care: Establishing a forum for testing primary care medical home reimbursement pilot projects. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature declares that collaboration among public payors, private health carriers, third-party purchasers, and providers to identify appropriate reimbursement methods to align incentives in support of primary care medical homes is in the best interest of the public. The legislature therefore intends to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the state action doctrine, for activities undertaken pursuant to pilots designed and implemented under section 2 of this act that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the price or specific level of reimbursement for health care services.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.54 RCW to read as follows:

The health care authority and the department of social and health services shall design, oversee implementation, and evaluate one or more primary care medical home reimbursement pilot projects in the state to include as participants public payors, private health carriers, third-party purchasers, and health care providers. Based on input from participants, the agencies shall:

(1) Determine the number and location of primary care medical home reimbursement pilots;

(2) Determine criteria to select primary care clinics to serve as pilot sites to facilitate testing of medical home reimbursement methods in a variety of primary care settings;

(3) Select pilot sites from those primary care provider clinics that currently employ a number of activities and functions typically associated with medical homes, or from sites that have been selected by the department of health to participate in a medical home collaborative under section 2, chapter 295, Laws of 2008;

(4) Determine one or more reimbursement methods to be tested by the pilots;

(5) Identify pilot performance measures for clinical quality, chronic care management, cost, and patient experience through patient self-reporting; and

(6) Appropriately coordinate during planning and operation of the pilots with the department of health medical home collaboratives and with other private and public efforts to promote adoption of medical homes within the state.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.54 RCW to read as follows:

The health care authority and the department of social and health services may select a pilot site that currently employs the following activities and functions associated with medical homes: Provision of preventive care, wellness counseling, primary care, coordination of primary care with specialty and hospital care, and urgent care services; availability of office appointments seven days per week and e-mail and telephone consultation; availability of telephone access for urgent care consultation on a seven-day per week, twenty-four hours per day basis; and use of a primary care provider panel size that promotes the ability of participating providers to appropriately provide the scope of services described in this section. The reimbursement method chosen for this pilot site must include a fixed monthly payment per person participating in the pilot site for the services described in this section. These services would be provided without the submission of claims for payment from any health carrier by the medical home provider. Agreements for payment made directly by a consumer or other entity paying on the consumer's behalf must comply with the provisions applicable to direct patient-provider primary care practices under chapter 48.150 RCW. In addition, the agencies may determine that the pilot should include a high deductible health plan or other health benefit plan designed to wrap around the primary care services offered under this section.

**NEW SECTION. Sec. 4.** This act expires July 1, 2013."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 25, 2009

ESB 5894 Prime Sponsor, Senator Haugen: Authorizing the utilities and transportation commission to forbear from rate and service regulation of certain transportation services. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 81.68.015 and 2007 c 234 s 47 are each amended to read as follows:

This chapter does not apply to corporations or persons, their lessees, trustees, receivers, or trustees appointed by any court whatsoever insofar as they own, control, operate, or manage taxicabs, hotel buses, school buses, or any other carrier that does not come within the term "auto transportation company" as defined in RCW 81.68.010.

This chapter does not apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in Washington in which the original starting point of the vehicle is located, and which operation either alone or in conjunction with another vehicle or vehicles is not a part of any journey beyond the three-mile limit.

This chapter does not apply to commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010, so long as the ride-sharing operation does not compete with or infringe upon comparable service actually being

provided before the initiation of the ride-sharing operation by an existing auto transportation company certificated under this chapter.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service does not serve an essential transportation purpose, is solely for recreation, and would not adversely affect the operations of the holder of a certificate under this chapter, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

This chapter does not apply to a service carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route if the commission finds, with or without a hearing, that the service is provided pursuant to a contract with a state agency, or funded by a grant issued by the department of transportation, and that exemption from this chapter is otherwise in the public interest. Companies providing these services must, however, obtain a permit under chapter 81.70 RCW.

**Sec. 2.** RCW 81.84.010 and 2007 c 234 s 92 are each amended to read as follows:

(1) A commercial ferry may not operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound, without first applying for and obtaining from the commission a certificate declaring that public convenience and necessity require such operation. Service authorized by certificates issued ((~~before or after July 25, 1993,~~)) to a commercial ferry operator must be exercised by the operator in a manner consistent with the conditions established in the certificate ((~~or~~)) and tariff((~~s~~)) filed under chapter 81.28 RCW. However, a certificate is not required for a vessel primarily engaged in transporting freight other than vehicles, whose gross earnings from the transportation of passengers or vehicles, or both, are not more than ten percent of the total gross annual earnings of such vessel.

(2) This section does not affect the right of any county public transportation benefit area or other public agency within this state to construct, condemn, purchase, operate, or maintain, itself or by contract, agreement, or lease, with any person, firm, or corporation, ferries or boats across the waters within this state, including rivers and lakes and Puget Sound, if the operation is not over the same route or between the same districts being served by a certificate holder without first acquiring the rights granted to the certificate holder under the certificate.

(((~~(2)~~))) (3) The holder of a certificate of public convenience and necessity granted under this chapter must initiate service within five years of obtaining the certificate, except that the holder of a certificate of public convenience and necessity for passenger-only ferry service in Puget Sound must initiate service within twenty months of obtaining the certificate. The certificate holder shall report to the commission every six months after the certificate is granted on the progress of the certificated route. The reports shall include, but not be limited to, the progress of environmental impact, parking, local government land use, docking, and financing considerations. Except in the case of passenger-only ferry service in Puget Sound, if service has not been initiated within five years of obtaining the certificate, the commission may extend the certificate on a twelve-month basis for up to three years if the six-month progress reports indicate there is significant advancement toward initiating service.

**Sec. 3.** RCW 81.66.010 and 1996 c 244 s 1 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Corporation" means a corporation, company, association, or joint stock association.

(2) "Person" means an individual, firm, or a copartnership.

(3) "Private, nonprofit transportation provider" means any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs, or pursuant to a contract with a state agency or funded by a grant issued by the department of transportation.

(4) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

**Sec. 4.** RCW 81.70.220 and 1989 c 163 s 7 are each amended to read as follows:

(1) No person may engage in the business of a charter party carrier or excursion service carrier of persons over any public highway without first having obtained a certificate from the commission to do so or having registered as an interstate carrier.

(2) An auto transportation company carrying passengers for compensation over any public highway in this state between fixed termini or over a regular route that is not required to hold an auto transportation certificate because of a commission finding under RCW 81.68.015 must obtain a certificate under this chapter.

**Sec. 5.** RCW 46.74.010 and 1997 c 250 s 8 and 1997 c 95 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution.

(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.

(3) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, as defined in RCW 81.66.010(3), serving persons with special needs, in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long: PROVIDED, That the driver need not be a person with special transportation needs.

(4) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing, flexible commuter ride sharing, or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an

employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, or any other political subdivision that owns or leases a ride-sharing vehicle.

(5) "Ride-sharing promotional activities" means those activities involved in forming a commuter ride-sharing arrangement or a flexible commuter ride-sharing arrangement, including but not limited to receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants, matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements.

(6) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

**NEW SECTION. Sec. 6.** (1) Within its existing resources, the utilities and transportation commission shall study the appropriateness of rate and service regulation of commercial ferries operating on Lake Chelan. The commission shall report its findings and recommendations to the legislature by December 31, 2009.

(2) This section expires December 31, 2009."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5913 Prime Sponsor, Committee on Health & Long-Term Care: Concerning online access to the University of Washington health sciences library by certain health care providers. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.70.110 and 2007 c 259 s 11 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

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

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

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

(c)(i) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112. However, each person subject to this subsection (3)(c) is required to pay only one surcharge of up to twenty-five dollars annually for the purposes of RCW 43.70.112, regardless of how many professional licenses he or she holds. Each year, by December 1st, the department shall provide an annual accounting of the use of the surcharge paid under this subsection, including the amounts paid by each of the professions subject to the surcharge. The accounting must be transmitted by electronic mail to the members of the health care committees of the legislature.

(ii) Annually, beginning within one year after the program begins, the department shall convene a user advisory group to review the online access program under RCW 43.70.112 and make recommendations for improving the program. The work group must include a licensed professional from each of the categories of professionals paying the surcharge under (c)(i) of this subsection, a department representative, and a representative from the University of Washington.

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

**Sec. 2.** RCW 43.70.112 and 2007 c 259 s 12 are each amended to read as follows:

Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009. Each year, by December 1st, the University of Washington shall provide an annual accounting of the use of the funds transferred, including which categories of health professionals are using the materials available under the program. The accounting must be transmitted by electronic mail to the members of the health care committees of the legislature."

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5931 Prime Sponsor, Committee on Judiciary: Regarding licensed mental health practitioner privilege. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 4, strike all of section 1
Renumber the remaining section and correct the title.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 27, 2009

E2SSB 5941 Prime Sponsor, Committee on Ways & Means: Regarding a comprehensive education data improvement system. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.41.400 and 2007 c 401 s 3 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative ((~~education [evaluation]~~)) evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

((~~(b)~~)) (c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

((~~(c)~~)) (d) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(e) Track enrollment and outcomes through the public centralized higher education enrollment system;

((~~(d)~~)) (f) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs; ((~~and~~ ~~(e)~~)) (g) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(h) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and section 2 of this act are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) It is the legislature's intent to establish a comprehensive K-12 education data improvement system for financial, student, and educator data. The objective of the system is to monitor student progress, have information on the quality of the educator workforce, monitor and analyze the costs of programs, provide for financial integrity and accountability, and have the capability to link across these various data components by student, by class, by teacher, by school, by district, and statewide. Education data systems must be flexible and able to adapt to evolving needs for information, but there must be an objective and orderly data governance process for determining when changes are needed and how to implement them. Furthermore, the benefits of significant increases in the amount of data available for analysis must be carefully weighed against the costs to school districts to enter, update, maintain, and submit the data and to implement new software and data management systems. It is the legislature's intent that the K-12 education data improvement system serve the information needs of educators, parents, policymakers, and the public but remain focused on the primary purpose of improving education.

(2) It is the legislature's intent that the K-12 education data improvement system used by school districts and the state include but not be limited to the following information and functionality:

(a) Comprehensive educator assignment information, including but not limited to grade level and courses taught, building or location, program, job assignment, years of experience, and compensation;

(b) The capacity to link educator assignment information with educator certification information;

(c) Common coding of secondary courses and major areas of study at the elementary level or standard coding of course content;

(d) Robust student information, including but not limited to student characteristics, course and program enrollment, and performance on assessments;

(e) A subset of student information elements to serve as a dropout early warning system;

(f) Student data that is sufficiently disaggregated to permit monitoring and analysis of progress in closing the achievement gap;

(g) The capacity to link educator information with student information;

(h) A common, standardized structure for reporting the costs of programs at the school and district level with a focus on the cost of services delivered to students;

(i) Information linking state funding formulas to school district budgeting and accounting, including procedures to support the accuracy and auditing of financial data;

(j) The capacity to link program cost information with student performance information to gauge the cost-effectiveness of programs; and

(k) Information that is centrally accessible and updated regularly.

(3) It is the legislature's goal that all school districts have the capability to collect state-identified common data and export it in a standard format to support the comprehensive K-12 education data improvement system.

(4) It is the legislature's intent that school districts collect and report new data elements to satisfy the requirements of RCW 43.41.400 and this section only to the extent funds are available for this purpose.

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

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data.

(2) The K-12 data governance group shall include representatives of the education data center, the office of the superintendent of public instruction, the legislative evaluation and accountability program committee, the professional educator standards board, the state board of education, and school district and educational service district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under section 2 of this act;

(c) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of education data systems and programs currently used by school districts and the state;

(d) Place a priority on financial and cost data necessary to support K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(e) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. The operating rules shall address such issues as:

(i) Standards for privacy and confidentiality;

(ii) Data collection priorities;

(iii) A standard data dictionary;

(iv) Ensuring data accuracy; and

(v) Establishing minimum standards for school, student, financial, and educator data systems.

(4) The work of the K-12 data governance group may be periodically reviewed and monitored by the educational data center and the legislative evaluation and accountability program committee.

(5) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

**NEW SECTION. Sec. 4.** The education data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement this act."

Correct the title.

Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Ways & Means.

March 26, 2009

2SSB 5945 Prime Sponsor, Committee on Ways & Means: Creating the Washington health partnership plan. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that the principles for health care reform articulated by President Obama in his proposed federal fiscal year 2010 budget to the congress of the United States provide an opportunity for the state of Washington to be both a partner with, and a model for, the federal government in its health care reform efforts.

**NEW SECTION. Sec. 2.** (1) The following principles shall provide guidance to the state of Washington in its health care reform deliberations:

(a) Guarantee choice. Provide Americans a choice of health plans and physicians. People will be allowed to keep their own doctor and their employer-based health plan.

(b) Make health coverage affordable. Reduce waste and fraud, high administrative costs, unnecessary tests and services, and other inefficiencies that drive up costs with no added health benefits.

(c) Protect families' financial health. Reduce the growing premiums and other costs American citizens and businesses pay for health care. People must be protected from bankruptcy due to catastrophic illness.

(d) Invest in prevention and wellness. Invest in public health measures proven to reduce cost drivers in our system, such as obesity, sedentary lifestyles, and smoking, as well as guarantee access to proven preventive treatments.

(e) Provide portability of coverage. People should not be locked into their job just to secure health coverage, and no American should be denied coverage because of preexisting conditions.

(f) Aim for universality. Put the United States on a clear path to cover all Americans.

(g) Improve patient safety and quality care. Ensure the implementation of proven patient safety measures and provide incentives for changes in the delivery system to reduce unnecessary variability in patient care. Support the widespread use of health information technology with rigorous privacy protections and the development of data on the effectiveness of medical interventions to improve the quality of care delivered.

(h) Maintain long-term fiscal sustainability. Any reform plan must pay for itself by reducing the level of cost growth, improving productivity, and dedicating additional sources of revenue.

(2) Over the past twenty years, both the private and public health care sectors in the state of Washington have implemented policies that are consistent with the principles in subsection (1) of this section. Most recently, the governor's blue ribbon commission on health reform agreed to recommendations that are highly consistent with those principles. Current policies in Washington state in accord with those principles include:

(a) With respect to aiming for universality and access to a choice of affordable health care plans and health care providers:

(i) The Washington basic health plan offers affordable health coverage to low-income families and individuals in Washington state through a choice of private managed health care plans and health care providers;

(ii) Apple health for kids will achieve its dual goals that every child in Washington state have health care coverage by 2010 and that the health status of children in Washington state be improved. Only four percent of children in Washington state lack health insurance, due largely to efforts to expand coverage that began in 1993;

(iii) Through the health insurance partnership program, Washington state has designed the infrastructure for a health insurance exchange for small employers that would give employers and employees a choice of private health benefit plans and health care providers, offer portability of coverage and provide a mechanism to offer premium subsidies to low-wage employees of these employers;

(iv) Purchasers, insurance carriers, and health care providers are working together to significantly reduce health care administrative costs. These efforts have already produced efficiencies, and will continue through the activities provided in Substitute House Bill No. 1647 and Second Substitute Senate Bill No. 5346, if enacted by the 2009 legislature; and

(v) Over one hundred thousand Washingtonians have enrolled in the state's discount prescription drug card program, saving consumers over six million dollars in prescription drug costs since February 2007, with an average discount of twenty-two dollars or forty-three percent of the price of each prescription filled.

(b) With respect to improving patient safety and quality of care and investing in prevention and wellness, the public and private health care sectors are engaged in numerous nationally recognized efforts:

(i) The Puget Sound health alliance is a national leader in identifying evidence-based health care practices, and reporting to the public on health care provider performance with respect to these practices. Many of these practices address disease prevention and management of chronic illness;

(ii) The Washington state health technology assessment program and prescription drug program use medical evidence and independent clinical advisors to guide the purchasing of clinically and cost-effective health care services by state-purchased health care programs;

(iii) Washington state's health record bank pilot projects are testing a new model of patient controlled electronic health records in three geographic regions of the state. The state has also provided grants to a number of small provider practices to help them implement electronic health records;

(iv) Efforts are underway to ensure that the people of Washington state have a medical home, with primary care providers able to understand their needs, meet their care needs effectively, better manage their chronic illnesses, and coordinate their care across the health care system. These efforts include group health cooperative of Puget Sound's medical home projects, care collaboratives sponsored by the state department of health, state agency chronic care management pilot projects; development of apple health for kids health improvement measures as indicators of children having a medical home, and implementation of medical home reimbursement pilot projects under Substitute Senate Bill No. 5891 and Second Substitute House Bill No. 2114, if enacted by the 2009 legislature; and

(v) Health care providers, purchasers, the state, and private quality improvement organizations are partnering to undertake numerous patient safety efforts, including hospital and ambulatory surgery center adverse events reporting, with root cause analysis to identify actions to be undertaken to prevent further adverse events; reporting of hospital acquired infections and undertaking efforts to reduce the rate of these infections; developing a surgical care outcomes assessment program that includes a presurgery checklist to reduce medical errors, and developing a patient decision aid pilot to more fully inform patients of the risks and benefits of treatment alternatives, decrease unnecessary procedures and variation in care, and provide increased legal protection to physicians whose patients use a patient decision aid to provide informed consent.

**NEW SECTION. Sec. 3.** (1) Beginning October 1, 2009, the governor shall convene quarterly meetings of the Washington health partnership advisory group. The advisory group will review progress and provide input related to further actions that can be taken in both the public and private sectors to implement the principles stated in section 2 of this act and the findings of the governor's blue ribbon commission on health reform. The membership of the advisory group shall include:

(a) Two members of the house of representatives and two members of the senate, representing the majority and minority caucuses of each body;

(b) The insurance commissioner;

(c) The secretary of the department of social and health services, the administrator of the health care authority, the director of the

department of labor and industries, and the director of the office of financial management;

(d) Members of the forum, the Puget Sound health alliance, and the healthy Washington coalition, who will ensure that the perspectives of employers, providers, health carriers, labor organizations, and consumers are actively involved in the group.

(2) The advisory group shall monitor the status and outcomes of activities at the state level with respect to their impact on access to affordable health care, cost containment and quality of care including, but not limited to:

(a) The programs and efforts described in section 2(2) of this act;

(b) Medicaid waivers submitted under sections 4 and 5 of this act; and

(c) Efforts to consolidate state health purchasing and streamline administration of the purchasing.

(3) The advisory group shall monitor the progress of health care reform legislation at the federal level, with the goal of aligning state health care activities so that the state is poised to participate in federal health care reform. If federal legislation is enacted that offers states the opportunity to undertake health care reform demonstration efforts, the governor, with the advice of the group established under this section, should actively seek to participate as a demonstration site.

(4) In its deliberations, the advisory group shall consider recent reports that have analyzed various health care reform proposals in Washington state.

**NEW SECTION. Sec. 4.** (1) The department shall submit a section 1115 demonstration waiver request to the federal department of health and human services to expand and revise the medical assistance program as codified in Title XIX of the federal social security act. The waiver request should be designed to ensure the broadest federal financial participation under Title XIX and XXI of the federal social security act. To the extent permitted under federal law, the waiver request should include the following components:

(a) Establishment of a single eligibility standard for low-income persons, including expansion of categorical eligibility to include childless adults. The department shall request that the single eligibility standard be phased in such that incremental steps are taken to cover additional low-income parents and individuals over time, with the goal of offering coverage to persons with household income at or below two hundred percent of the federal poverty level;

(b) Establishment of a single seamless application and eligibility determination system for all state low-income medical programs included in the waiver. Applications may be electronic and may include an electronic signature for verification and authentication. Eligibility determinations should maximize federal financing where possible;

(c) The delivery of all low-income coverage programs as a single program, with a common core benefit package that may be similar to the basic health benefit package or an alternative benefit package approved by the secretary of the federal department of health and human services, including the option of supplemental coverage for select categorical groups, such as children, and individuals who are aged, blind, and disabled;

(d) A program design to include creative and innovative approaches such as: Coverage for preventive services with incentives to use appropriate preventive care; enhanced medical home reimbursement and bundled payment methodologies; cost-sharing options; use of care management and care coordination programs to improve coordination of medical and behavioral health services; application of an innovative predictive risk model to better target care management services; and mandatory enrollment in managed care, as may be necessary;

(e) The ability to impose enrollment limits or benefit design changes for eligibility groups that were not eligible under the Title XIX state plan in effect on the date of submission of the waiver application;

(f) A premium assistance program whereby employers can participate in coverage options for employees and dependents of employees otherwise eligible under the waiver. The waiver should make every effort to maximize enrollment in employer-sponsored health insurance when it is cost-effective for the state to do so, and the purchase is consistent with the requirements of Titles XIX and XXI of the federal social security act. To the extent allowable under federal law, the department shall require enrollment in available employer-sponsored coverage as a condition of eligibility for coverage under the waiver; and

(g) The ability to share savings that might accrue to the federal medicare program, Title XVIII of the federal social security act, from improved care management for persons who are eligible for both medicare and medicaid. Through the waiver application process, the department shall determine whether the state could serve, directly or by contract, as a medicare special needs plan for persons eligible for both medicare and medicaid.

(2) The department shall hold ongoing stakeholder discussions as it is developing the waiver request, and provide opportunities for public review and comment as the request is being developed.

(3) The department and the health care authority shall identify statutory changes that may be necessary to ensure successful and timely implementation of the waiver request as submitted to the federal department of health and human services as the apple health program for adults.

(4) The legislature must authorize implementation of any waiver approved by the federal department of health and human services under this section.

**NEW SECTION. Sec. 5.** The department shall continue to submit applications for the family planning waiver program.

(1) The department shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:

(a) Provide coverage for sexually transmitted disease testing and treatment;

(b) Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence; and

(c) Increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services.

(2) The implementation of subsection (1)(c) of this section is subject to funds provided specifically for this purpose.

**NEW SECTION. Sec. 6.** Sections 2 and 3 of this act are each added to chapter 43.06 RCW.

**NEW SECTION. Sec. 7.** Sections 4 and 5 of this act are each added to chapter 74.09 RCW."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Referred to Committee on Health & Human Services Appropriations.

March 27, 2009

SSB 5963 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Regarding unemployment insurance. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

*Format change to accommodate text.*

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50.29.021 and 2008 c 323 s 2 are each amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050(((~~(2)~~))) (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050(((~~(2)~~))) (1)(b) (v) through (x) or (2)(b) (v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer. However, when a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050(((~~(2)~~))) (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (3)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(4)(a) A contribution paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.06 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

**Sec. 2.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read as follows:

(1) ((~~Except as provided in subsection (2) of this section, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be determined under this subsection.~~

~~(a) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the September 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year~~

~~preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.~~

~~(b) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in (c) of this subsection shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:~~

| ~~Interval of the Fund Balance Ratio Expressed as a Percentage~~ | ~~Effective Tax Schedule~~ |
|---|---|
| ~~2.90 and above~~ | ~~AA~~ |
| ~~2.10 to 2.89~~ | ~~A~~ |
| ~~1.70 to 2.09~~ | ~~B~~ |
| ~~1.40 to 1.69~~ | ~~C~~ |
| ~~1.00 to 1.39~~ | ~~D~~ |
| ~~0.70 to 0.99~~ | ~~E~~ |
| ~~Less than 0.70~~ | ~~F~~ |

~~(c) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (i) Identification number; (ii) benefit ratio; (iii) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (iv) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (v) the percentage equivalent of the cumulative total of taxable payrolls.~~

~~(d) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in (c) of this subsection: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.~~

~~(e) Except as provided in RCW 50.29.026, the contribution rate for each employer in the array shall be the rate specified in the following tables for the rate class to which he or she has been assigned, as determined under (d) of this subsection, within the tax schedule which is to be in effect during the rate year:~~

| ~~Percent of Cumulative Taxable Payrolls~~ | | | ~~Schedules of Contributions Rates for Effective Tax Schedule~~ | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| ~~From~~ | ~~To~~ | ~~Rate Class~~ | ~~AA~~ | ~~A~~ | ~~B~~ | ~~C~~ | ~~D~~ | ~~E~~ | ~~F~~ |
| ~~0.00~~ | ~~5.00~~ | ~~1~~ | ~~0.47~~ | ~~0.47~~ | ~~0.57~~ | ~~0.97~~ | ~~1.47~~ | ~~1.87~~ | ~~2.47~~ |
| ~~5.01~~ | ~~10.00~~ | ~~2~~ | ~~0.47~~ | ~~0.47~~ | ~~0.77~~ | ~~1.17~~ | ~~1.67~~ | ~~2.07~~ | ~~2.67~~ |
| ~~10.01~~ | ~~15.00~~ | ~~3~~ | ~~0.57~~ | ~~0.57~~ | ~~0.97~~ | ~~1.37~~ | ~~1.77~~ | ~~2.27~~ | ~~2.87~~ |
| ~~15.01~~ | ~~20.00~~ | ~~4~~ | ~~0.57~~ | ~~0.73~~ | ~~1.11~~ | ~~1.51~~ | ~~1.90~~ | ~~2.40~~ | ~~2.98~~ |
| ~~20.01~~ | ~~25.00~~ | ~~5~~ | ~~0.72~~ | ~~0.92~~ | ~~1.30~~ | ~~1.70~~ | ~~2.09~~ | ~~2.59~~ | ~~3.08~~ |
| ~~25.01~~ | ~~30.00~~ | ~~6~~ | ~~0.91~~ | ~~1.11~~ | ~~1.49~~ | ~~1.89~~ | ~~2.29~~ | ~~2.69~~ | ~~3.18~~ |
| ~~30.01~~ | ~~35.00~~ | ~~7~~ | ~~1.00~~ | ~~1.29~~ | ~~1.69~~ | ~~2.08~~ | ~~2.48~~ | ~~2.88~~ | ~~3.27~~ |
| ~~35.01~~ | ~~40.00~~ | ~~8~~ | ~~1.19~~ | ~~1.48~~ | ~~1.88~~ | ~~2.27~~ | ~~2.67~~ | ~~3.07~~ | ~~3.47~~ |
| ~~40.01~~ | ~~45.00~~ | ~~9~~ | ~~1.37~~ | ~~1.67~~ | ~~2.07~~ | ~~2.47~~ | ~~2.87~~ | ~~3.27~~ | ~~3.66~~ |
| ~~45.01~~ | ~~50.00~~ | ~~10~~ | ~~1.56~~ | ~~1.86~~ | ~~2.26~~ | ~~2.66~~ | ~~3.06~~ | ~~3.46~~ | ~~3.86~~ |
| ~~50.01~~ | ~~55.00~~ | ~~11~~ | ~~1.84~~ | ~~2.14~~ | ~~2.45~~ | ~~2.85~~ | ~~3.25~~ | ~~3.66~~ | ~~3.95~~ |
| ~~55.01~~ | ~~60.00~~ | ~~12~~ | ~~2.03~~ | ~~2.33~~ | ~~2.64~~ | ~~3.04~~ | ~~3.44~~ | ~~3.85~~ | ~~4.15~~ |
| ~~60.01~~ | ~~65.00~~ | ~~13~~ | ~~2.22~~ | ~~2.52~~ | ~~2.83~~ | ~~3.23~~ | ~~3.64~~ | ~~4.04~~ | ~~4.34~~ |
| ~~65.01~~ | ~~70.00~~ | ~~14~~ | ~~2.40~~ | ~~2.71~~ | ~~3.02~~ | ~~3.43~~ | ~~3.83~~ | ~~4.24~~ | ~~4.54~~ |
| ~~70.01~~ | ~~75.00~~ | ~~15~~ | ~~2.68~~ | ~~2.90~~ | ~~3.21~~ | ~~3.62~~ | ~~4.02~~ | ~~4.43~~ | ~~4.63~~ |
| ~~75.01~~ | ~~80.00~~ | ~~16~~ | ~~2.87~~ | ~~3.09~~ | ~~3.42~~ | ~~3.81~~ | ~~4.22~~ | ~~4.53~~ | ~~4.73~~ |
| ~~80.01~~ | ~~85.00~~ | ~~17~~ | ~~3.27~~ | ~~3.47~~ | ~~3.77~~ | ~~4.17~~ | ~~4.57~~ | ~~4.87~~ | ~~4.97~~ |
| ~~85.01~~ | ~~90.00~~ | ~~18~~ | ~~3.67~~ | ~~3.87~~ | ~~4.17~~ | ~~4.57~~ | ~~4.87~~ | ~~4.97~~ | ~~5.17~~ |
| ~~90.01~~ | ~~95.00~~ | ~~19~~ | ~~4.07~~ | ~~4.27~~ | ~~4.57~~ | ~~4.97~~ | ~~5.07~~ | ~~5.17~~ | ~~5.37~~ |
| ~~95.01~~ | ~~100.00~~ | ~~20~~ | ~~5.40~~ | ~~5.40~~ | ~~5.40~~ | ~~5.40~~ | ~~5.40~~ | ~~5.40~~ | ~~5.40~~ |

~~(f) The contribution rate for each employer not qualified to be in the array shall be as follows:~~

~~(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year, except employers who have an approved agency-deferred payment contract by September 30 of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year; and~~

~~(ii) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent.~~

~~(2) Beginning with~~)) For contributions assessed for rate years 2005 through 2009, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

| Benefit Ratio | | Rate | Rate |
|---|---|---|---|
| At least | Less than | Class | (percent) |
| | 0.000001 | 1 | 0.00 |
| 0.000001 | 0.001250 | 2 | 0.13 |
| 0.001250 | 0.002500 | 3 | 0.25 |
| 0.002500 | 0.003750 | 4 | 0.38 |
| 0.003750 | 0.005000 | 5 | 0.50 |
| 0.005000 | 0.006250 | 6 | 0.63 |
| 0.006250 | 0.007500 | 7 | 0.75 |
| 0.007500 | 0.008750 | 8 | 0.88 |
| 0.008750 | 0.010000 | 9 | 1.00 |
| 0.010000 | 0.011250 | 10 | 1.15 |
| 0.011250 | 0.012500 | 11 | 1.30 |
| 0.012500 | 0.013750 | 12 | 1.45 |
| 0.013750 | 0.015000 | 13 | 1.60 |
| 0.015000 | 0.016250 | 14 | 1.75 |
| 0.016250 | 0.017500 | 15 | 1.90 |
| 0.017500 | 0.018750 | 16 | 2.05 |
| 0.018750 | 0.020000 | 17 | 2.20 |
| 0.020000 | 0.021250 | 18 | 2.35 |
| 0.021250 | 0.022500 | 19 | 2.50 |
| 0.022500 | 0.023750 | 20 | 2.65 |
| 0.023750 | 0.025000 | 21 | 2.80 |
| 0.025000 | 0.026250 | 22 | 2.95 |
| 0.026250 | 0.027500 | 23 | 3.10 |
| 0.027500 | 0.028750 | 24 | 3.25 |
| 0.028750 | 0.030000 | 25 | 3.40 |
| 0.030000 | 0.031250 | 26 | 3.55 |
| 0.031250 | 0.032500 | 27 | 3.70 |
| 0.032500 | 0.033750 | 28 | 3.85 |
| 0.033750 | 0.035000 | 29 | 4.00 |
| 0.035000 | 0.036250 | 30 | 4.15 |
| 0.036250 | 0.037500 | 31 | 4.30 |
| 0.037500 | 0.040000 | 32 | 4.45 |
| 0.040000 | 0.042500 | 33 | 4.60 |
| 0.042500 | 0.045000 | 34 | 4.75 |
| 0.045000 | 0.047500 | 35 | 4.90 |
| 0.047500 | 0.050000 | 36 | 5.05 |
| 0.050000 | 0.052500 | 37 | 5.20 |
| 0.052500 | 0.055000 | 38 | 5.30 |
| 0.055000 | 0.057500 | 39 | 5.35 |
| 0.057500 | | 40 | 5.40 |

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year

immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection ((~~(2)~~)) (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection ((~~(2)~~)) (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least twelve months but less than fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent, except that, for employers in rate class 1, the minimum shall be forty-five hundredths of one percent.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six percent through rate year 2007 and may not exceed five and seven-tenths percent for rate years 2008 and ((~~thereafter~~)) 2009:

(I) Rate class 1 - 78 percent;

(II) Rate class 2 - 82 percent;

(III) Rate class 3 - 86 percent;

(IV) Rate class 4 - 90 percent;

(V) Rate class 5 - 94 percent;

(VI) Rate class 6 - 98 percent;

(VII) Rate class 7 - 102 percent;

(VIII) Rate class 8 - 106 percent;

(IX) Rate class 9 - 110 percent;

(X) Rate class 10 - 114 percent;

(XI) Rate class 11 - 118 percent; and

(XII) Rate classes 12 through 40 - 120 percent.

(B) For contributions assessed beginning July 1, 2005, through December 31, 2007, for employers whose North American industry classification system code is "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) For rate years 2005, 2006, and 2007:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40; and

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) ((~~Beginning with~~)) For contributions assessed for rate years 2008 and 2009:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(C) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to

contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

| | History Ratio | | History Factor (percent) |
|---|---|---|---|
| | At least | Less than | |
| (I) | | .95 | 90 |
| (II) | .95 | 1.05 | 100 |
| (III) | 1.05 | | 115 |

(2) For contributions assessed in rate year 2010 and thereafter, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

| Benefit Ratio | | Rate | Rate |
|---|---|---|---|
| At least | Less than | Class | (percent) |
| | 0.000001 | 1 | 0.00 |
| 0.000001 | 0.001250 | 2 | 0.11 |
| 0.001250 | 0.002500 | 3 | 0.22 |
| 0.002500 | 0.003750 | 4 | 0.33 |
| 0.003750 | 0.005000 | 5 | 0.43 |
| 0.005000 | 0.006250 | 6 | 0.54 |
| 0.006250 | 0.007500 | 7 | 0.65 |
| 0.007500 | 0.008750 | 8 | 0.76 |
| 0.008750 | 0.010000 | 9 | 0.88 |
| 0.010000 | 0.011250 | 10 | 1.01 |
| 0.011250 | 0.012500 | 11 | 1.14 |
| 0.012500 | 0.013750 | 12 | 1.28 |
| 0.013750 | 0.015000 | 13 | 1.41 |
| 0.015000 | 0.016250 | 14 | 1.54 |
| 0.016250 | 0.017500 | 15 | 1.67 |
| 0.017500 | 0.018750 | 16 | 1.80 |
| 0.018750 | 0.020000 | 17 | 1.94 |
| 0.020000 | 0.021250 | 18 | 2.07 |
| 0.021250 | 0.022500 | 19 | 2.20 |
| 0.022500 | 0.023750 | 20 | 2.38 |
| 0.023750 | 0.025000 | 21 | 2.50 |
| 0.025000 | 0.026250 | 22 | 2.63 |
| 0.026250 | 0.027500 | 23 | 2.75 |
| 0.027500 | 0.028750 | 24 | 2.88 |
| 0.028750 | 0.030000 | 25 | 3.00 |
| 0.030000 | 0.031250 | 26 | 3.13 |
| 0.031250 | 0.032500 | 27 | 3.25 |
| 0.032500 | 0.033750 | 28 | 3.38 |
| 0.033750 | 0.035000 | 29 | 3.50 |
| 0.035000 | 0.036250 | 30 | 3.63 |
| 0.036250 | 0.037500 | 31 | 3.75 |
| 0.037500 | 0.040000 | 32 | 4.00 |
| 0.040000 | 0.042500 | 33 | 4.25 |
| 0.042500 | 0.045000 | 34 | 4.50 |
| 0.045000 | 0.047500 | 35 | 4.75 |
| 0.047500 | 0.050000 | 36 | 5.00 |

| | | | |
|---|---|---|---|
| 0.050000 | 0.052500 | 37 | 5.15 |
| 0.052500 | 0.055000 | 38 | 5.25 |
| 0.055000 | 0.057500 | 39 | 5.30 |
| 0.057500 | | 40 | 5.40 |

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or

(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii) The graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

(A) Rate class 1 - 78 percent;

(B) Rate class 2 - 82 percent;

(C) Rate class 3 - 86 percent;

(D) Rate class 4 - 90 percent;

(E) Rate class 5 - 94 percent;

(F) Rate class 6 - 98 percent;

(G) Rate class 7 - 102 percent;

(H) Rate class 8 - 106 percent;

(I) Rate class 9 - 110 percent;

(J) Rate class 10 - 114 percent;

(K) Rate class 11 - 118 percent; and

(L) Rate classes 12 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract

fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

| | History Ratio | | History Factor (percent) |
|---|---|---|---|
| | At least | Less than | |
| (A) | | .95 | 90 |
| (B) | .95 | 1.05 | 100 |
| (C) | 1.05 | | 115 |

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found ((~~in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or~~)) in the North American industry classification system code.

**Sec. 3.** RCW 50.20.050 and 2008 c 323 s 1 are each amended to read as follows:

(1) ((~~With respect to claims that have an effective date before January 4, 2004:~~

~~(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.~~

~~The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:~~

~~(i) The duration of the work;~~

~~(ii) The extent of direction and control by the employer over the work; and~~

~~(iii) The level of skill required for the work in light of the individual's training and experience.~~

~~(b) An individual shall not be considered to have left work voluntarily without good cause when:~~

~~(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;~~

~~(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;~~

~~(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or~~

~~(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.~~

~~(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.~~

~~(d) Subsection (1)(a) and (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able,~~

~~and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.~~

~~(2)~~)) With respect to claims that have an effective date on or after January 4, 2004, and separations that occur before September 6, 2009:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;

(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

(2) With respect to separations that occur on or after September 6, 2009:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual has good cause and is not disqualified from benefits under (a) of this subsection only under the following circumstances:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) The claimant: (A) Left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs;

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program; or

(xii) The individual left work because continuing in employment would work an unreasonable hardship on the individual. "Unreasonable hardship" means a result not due to the individual's voluntary action that would cause a reasonable person to leave that employment. The circumstances must be based on existing facts, not conjecture, and the reasons for leaving work must be significant. An individual seeking to demonstrate unreasonable hardship must show that:

(A) The individual left work primarily for reasons connected with his or her employment;

(B) The work-connected reasons were of such a compelling nature they would have caused a reasonably prudent person to leave work; and

(C) The individual first exhausted all reasonable alternatives before leaving work, unless pursuing reasonable alternatives would have been futile.

**Sec. 4.** RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as follows:

Except as provided in RCW 50.20.--- (section 2, chapter 3, Laws of 2009), benefits shall be payable as provided in this section.

(1) For claims with an effective date on or after April 4, 2004, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date on or after April 24, 2005, and before January 3, 2010, an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) For claims with an effective date on or after January 3, 2010, and before January 3, 2016:

(i) Except as provided in (b)(ii) of this subsection, an individual's weekly benefit amount shall be an amount equal to four percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(ii) An individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest if the commissioner determines that:

(A) Additional compensation is payable pursuant to section 2002 of the American recovery and reinvestment act of 2009 or a substantially similar federal law, or pursuant to RCW 50.20.--- (section 2, chapter 3, Laws of 2009), or a substantially similar state law; or

(B) The balance in the unemployment compensation fund is an amount that will provide fewer than eight months of unemployment benefits.

(c) For claims with an effective date on or after January 3, 2016, an individual's weekly benefit amount shall be an amount equal to four percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a) The maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar.

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

**NEW SECTION. Sec. 6.** 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."

Correct the title.

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

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

Passed to Committee on Rules for second reading.

March 27, 2009

2SSB 5973 Prime Sponsor, Committee on Ways & Means: Closing the achievement gap in K-12 schools. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec.** 1. The legislature finds compelling evidence from five commissioned studies that additional progress must be made to address the achievement gap. Many students are in demographic groups that are overrepresented in measures such as school disciplinary sanctions; failure to meet state academic standards; failure to graduate; enrollment in special education and underperforming schools; enrollment in advanced placement courses, honors programs, and college preparatory classes; and enrollment in and completion of college. The studies contain specific recommendations that are data-driven and drawn from education research, as well as the personal, professional, and cultural experience of those who contributed to the studies. The legislature finds there is no better opportunity to make a strong commitment to closing the achievement gap than in legislation and to affirm the state's constitutional obligation to provide opportunities to learn for all students without distinction or preference on account of race, ethnicity, socioeconomic status, or gender."

Correct the title.

Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Liias; Maxwell; Orwall; Santos and Sullivan.

Referred to Committee on Education Appropriations.

March 25, 2009

SSB 5987 Prime Sponsor, Committee on Human Services & Corrections: Authorizing the Washington state department of corrections to develop training for corrections personnel. Reported by Committee on Human Services

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green; Klippert; Morrell; O'Brien and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2009

SB 5989 Prime Sponsor, Senator Sheldon: Regarding the greenhouse gas emissions performance standard under chapter 80.80 RCW. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass. Signed by Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle; Condotta; DeBolt; Finn; Hasegawa; Herrera; Hudgins; Jacks; McCune; Takko and Van De Wege.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 6009 Prime Sponsor, Committee on Health & Long-Term Care: Concerning long-term care facilities. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 70.129 RCW to read as follows:

(1) A long-term care facility must fully disclose to residents the facility's policy on accepting medicaid as a payment source. The policy shall clearly state the circumstances under which the facility provides care for medicaid eligible residents and for residents who may later become eligible for medicaid.

(2) The policy under this section must be provided to residents orally and in writing prior to admission, in a language that the resident or the resident's representative understands. The written policy must be in type font no smaller than fourteen point and written on a page that is separate from other documents. The policy must be signed and dated by the resident or the resident's representative, if the resident lacks capacity. The facility must retain a copy of the disclosure. Current residents must receive a copy of the policy consistent with this section by the effective date of this act."

Correct the title.

Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 6019 Prime Sponsor, Committee on Health & Long-Term Care: Concerning employee wellness programs. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey; Campbell; Clibborn; Green; Herrera; Hinkle; Kelley; Moeller; Morrell and Pedersen.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 6024 Prime Sponsor, Committee on Human Services & Corrections: Addressing applications for public assistance from persons currently ineligible to receive

assistance. Reported by Committee on Human Services

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green; Klippert; Morrell; O'Brien and Walsh.

Passed to Committee on Rules for second reading.

March 26, 2009

ESB 6033 Prime Sponsor, Senator Berkey: Creating the prevent or reduce owner-occupied foreclosure program. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.320.160 and 2008 c 322 s 1 are each amended to read as follows:

(1) The ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program is created in the department to assist ((~~low-income and moderate-income households, as defined in RCW 84.14.010,~~)) borrowers facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. The borrowers are households, families, and individuals who are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of median income level of the county in which the borrower resides.

(2) The department shall enter into an interagency agreement with the Washington state housing finance commission to implement and administer this program with moneys from the account created in RCW 43.320.165. The Washington state housing finance commission will request funds from the department as needed to implement and operate the program.

(3) The commission shall, under terms and conditions to be determined by the commission, in consultation with the department, assist homeowners who are ((~~delinquent on their mortgage payments to bring their mortgage payments current in order to refinance into a different loan product~~)) facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. ((~~Financial assistance received by homeowners under this chapter shall be repaid at the time of refinancing into a different loan product. Homeowners receiving financial assistance shall also agree to partake in a residential mortgage counseling program.~~)) Moneys may also be used for outreach activities to raise awareness of this program; creating and maintaining a pool of volunteers consisting of attorneys, accountants, banking professionals, mortgage brokers, housing counselors, and other relevant professionals who participate in the program as needed and without compensation to provide advice and representation to the borrower in achieving work-outs, loan modifications, or other results that keep them in their homes; and administering assignments of volunteers to borrowers in the most productive manner. Not more than four percent of the total appropriation for this program may be used for administrative expenses of the department and the commission.

(4) The commission must provide an annual report to the legislature at the end of each fiscal year of program operation. The report must include information ((~~including the total number of households seeking help to resolve mortgage delinquency, the number of program participants that successfully avoided foreclosure, and the number of program participants who refinanced a home, including information on the terms of both the new loan product and the product out of which the homeowner refinanced~~)) determined by the prevent or reduce owner-occupied foreclosure oversight committee established under section 4 of this act to be useful in assessing the success of the program. The commission shall establish and report upon performance measures, including measures to gauge program efficiency and effectiveness and customer satisfaction.

(5) For the purposes of this section, "work-out" means an agreement made between the borrower and the mortgagee or beneficiary under a deed of trust, or with the authorized agent of the mortgagee or beneficiary, that results in the borrower's continued residence in the mortgaged residential property.

**Sec. 2.** RCW 43.320.165 and 2008 c 322 s 2 are each amended to read as follows:

The ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4, chapter 322, Laws of 2008 as well as receipts from private contributions and all other sources that are specifically designated for the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing or reducing owner-occupied foreclosures through the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program as described in RCW 43.320.160. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 3.** RCW 43.320.170 and 2008 c 322 s 3 are each amended to read as follows:

The Washington state housing finance commission shall ((~~only~~)) serve ((~~low-income~~)) households, ((~~as defined in RCW 84.14.010,~~)) families, and individuals who are residents of Washington state, with an emphasis on borrowers with incomes up to one hundred forty percent of the median income level of the county in which the borrower resides, through the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program described in RCW 43.320.160 using state appropriated general funds in the ((~~smart homeownership choices~~)) prevent or reduce owner-occupied foreclosure program account created in RCW 43.320.165((~~.~~)) and contributions from private and other sources ((~~to the account may be used to serve both low-income and moderate-income households, as defined in RCW 84.14.010, through the smart homeownership choices program~~)).

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.320 RCW to read as follows:

(1) The housing finance commission shall establish a prevent or reduce owner-occupied foreclosure oversight committee to consist of:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The director of the department of financial institutions as an ex officio member;

(d) The executive director of the housing finance commission as an ex officio member;

(e) A representative of the Washington state bar association;

(f) A representative of the office of civil legal aid;

(g) A representative of a banker's association;

(h) A representative of the Washington state board of accountancy;

(i) A representative of community banks;

(j) A representative of mortgage brokers;

(k) A representative of housing counselors; and

(l) A representative of credit unions.

(2) The members of the prevent or reduce owner-occupied foreclosure oversight committee shall serve without compensation.

(3) The prevent or reduce owner-occupied foreclosure oversight committee shall serve as the housing finance commission's principal advisory body on the prevent or reduce owner-occupied foreclosure program, and must:

(a) Develop criteria for success of the program that may include: Number of borrowers served; number of work-outs achieved; amount of homeowner funds received for homeowner stabilization; and number of volunteer professionals participating;

(b) Periodically evaluate the effectiveness of the program according to the criteria developed under (a) of this subsection;

(c) Develop and maintain an inventory of state and federal housing assistance programs directed to stabilize owner-occupied homes; and

(d) Coordinate all state efforts related to prevention or reduction of owner-occupied foreclosures.

(4) Any of the duties under subsection (3) of this section may be delegated to the executive director of the housing finance commission.

(5) The prevent or reduce owner-occupied foreclosure oversight committee shall meet regularly.

(6) The housing finance commission must provide information and assistance as requested for the prevent or reduce owner-occupied foreclosure oversight committee to carry out its duties under this section.

(7) Staff support for the committee must be provided by the housing finance commission.

**NEW SECTION. Sec. 5.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2011:

1.1.1.1. RCW 43.320.160 (Smart homeownership choices program--Report) and section 1 of this act & 2008 c 322 s 1;

1.1.1.2. RCW 43.320.165 (Smart homeownership choices program account) and section 2 of this act & 2008 c 322 s 2;

1.1.1.3. RCW 43.320.170 (Smart homeownership choices program--Expenditures--Low-income households--Moderate-income households) and section 3 of this act & 2008 c 322 s 3; and

(4) Section 4 of this act."

Correct the title.

Signed by Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst; McCoy; Nelson; Roach; Rodne; Santos and Simpson.

Passed to Committee on Rules for second reading.

March 27, 2009

ESSB 6035 Prime Sponsor, Committee on Labor, Commerce & Consumer Protection: Concerning retrospective rating plans. Reported by Committee on Commerce & Labor

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

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

Referred to Committee on Health & Human Services Appropriations.

March 27, 2009

ESSB 6037 Prime Sponsor, Committee on Government Operations & Elections: Removing oversight of the department of licensing from specific businesses and professions. Reported by Committee on Commerce & Labor

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

Referred to Committee on General Government Appropriations.

March 26, 2009

SB 6053 Prime Sponsor, Senator Fraser: Establishing a pilot program to provide access to personal hygiene and cleaning products. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Bailey; Herrera and Hinkle.

Referred to Committee on General Government Appropriations.

March 25, 2009

SB 6068 Prime Sponsor, Senator Swecker: Modifying the definition of "conviction" for the purposes of the uniform commercial driver's license act. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Campbell; Cox; Driscoll; Finn; Flannigan; Johnson; Klippert; Rolfes; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Eddy; Ericksen; Herrera; Kristiansen; Moeller and Shea.

Passed to Committee on Rules for second reading.

March 25, 2009

SSB 6095 Prime Sponsor, Committee on Transportation: Clarifying that retirement costs continue to be authorized as a charge included in the Puget Sound pilotage district tariff. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 88.16.035 and 2008 c 128 s 2 are each amended to read as follows:

(1) The board of pilotage commissioners shall:

(a) Adopt rules, pursuant to chapter 34.05 RCW, necessary for the enforcement and administration of this chapter;

(b)(i) Issue training licenses and pilot licenses to pilot applicants meeting the qualifications provided for in RCW 88.16.090 and such additional qualifications as may be determined by the board;

(ii) Establish a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing; and

(iii) Establish additional training requirements, including a program of continuing education developed after consultation with pilot organizations, including those located within the state of Washington, as required to maintain a competent pilotage service;

(c) Maintain a register of pilots, records of pilot accidents, and other history pertinent to pilotage;

(d) Determine from time to time the number of pilots necessary to be licensed in each district of the state to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district;

(e) Annually fix the pilotage tariffs for pilotage services ((~~performed aboard vessels as required by~~)) provided under this chapter: PROVIDED, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the board may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots;

(f) File annually with the governor and the chairs of the transportation committees of the senate and house of representatives a report which includes, but is not limited to, the following: The number, names, ages, pilot license number, training license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot or trainee; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings or stipends of individual pilots and trainees before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of groundings, marine occurrences, or other incidents which are reported to or investigated by the board, and which are determined to be accidents, as defined by the board, including the vessel name, location of incident, pilot's or trainee's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot or trainee, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW 88.16.190 together with the names of any and all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

(g) Make available information that includes the pilotage act and other statutes of Washington state and the federal government that affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters;

(h) Appoint advisory committees and employ marine experts as necessary to carry out its duties under this chapter;

(i) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter.

(2) The board may pay stipends to pilot trainees under subsection (1)(b) of this section."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Shea; Simpson; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Eddy and Springer.

Passed to Committee on Rules for second reading.

March 23, 2009

SJM 8006 Prime Sponsor, Senator Zarelli: Requesting that state route number 502 be named the "Battle Ground Highway" and that a portion of state route number 503 be named the "Lewisville Highway." Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Ericksen; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Sells; Shea; Simpson; Springer; Upthegrove; Wallace; Williams and Wood.

Passed to Committee on Rules for second reading.

March 26, 2009

SJM 8012 Prime Sponsor, Senator Fraser: Urging adoption of a treaty fighting discrimination against women. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan; Kelley; Kirby; Ormsby and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

SJM 8013 Prime Sponsor, Senator Keiser: Calling on Congress to enact legislation to eliminate the 24 month Medicare waiting period for participants in Social Security Disability Insurance. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Driscoll, Vice Chair; Bailey; Campbell; Clibborn; Green; Kelley; Moeller; Morrell and Pedersen.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen, Ranking Minority Member; Herrera and Hinkle.

Passed to Committee on Rules for second reading.

## SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

March 27, 2009

HB 2315 Prime Sponsor, Representative Takko: Regarding forest fire protection assessment refunds. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Blake, Chair; Jacks; Liias; McCoy; Nelson; Ormsby and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Pearson and Warnick.

Referred to Committee on General Government Appropriations.

March 27, 2009

SB 5002 Prime Sponsor, Senator Jacobsen: Creating the Washington heritage livestock and poultry breed recognition program. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that preserving genetic diversity of animal species is of high interest to the public. The development of livestock and poultry species commenced centuries ago through domestication and breeding of what had been wild animal species. Through the ages, many species of food animals have been transported from one region or continent to another and distinct and recognizable breeds of these species have developed. The legislature finds that the historic livestock and poultry breeds retain different and unique genetic attributes including factors that can affect fertility, foraging ability, longevity, maternal instincts, and resistance to diseases and parasites.

As some specialized breeds have become favored in modern food production systems, competitive market forces have caused others to diminish or become extinct. When a breed is lost, the unique genetic attributes are not retrievable. The legislature finds that sufficient mechanisms currently do not exist to support the continued survival of some of the declining breeds.

The purpose of this act is to establish a nonregulatory incentive-based program to encourage owners of rare and diminishing species of livestock and poultry to continue rearing these animals. It is the intent of the legislature to establish procedures to provide recognition to owners of animals as heritage livestock and poultry and thereby increase public awareness of their contribution toward the perpetuation of rare and declining breeds.

**NEW SECTION. Sec. 2.** (1) The Washington heritage livestock and poultry breed recognition program is hereby created in the department of archaeology and historic preservation.

(2) The director shall establish a heritage livestock and poultry breed recognition program. To apply for recognition, an animal owner may submit an application form to the department that includes the breed of the livestock or poultry, photos of the animals, a brief history of the livestock or poultry breed including the breed's origin, and its interesting and unique characteristics. The department may use as a general guide for the recognition program, the species of livestock and poultry that are designated as "critical," "threatened," or "watch" on the conservation priority list established by the American livestock breeds conservancy. Persons owning livestock or poultry of breeds not included on these lists may submit supplemental information regarding the breed's status as a rare or diminishing breed for consideration by the department for possible designation as a heritage livestock or poultry breed.

(3) The department shall (a) periodically issue recognition awards to the owners of the animals designated under subsection (2) of this section and (b) maintain a web site that includes pictures and a short description of animals on the heritage livestock and poultry breed registry.

(4) This section expires July 1, 2011.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Blake, Chair; Grant-Herriot, Vice Chair; Jacks; Kretz; Liias; McCoy and Ormsby.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Nelson; Pearson; Van De Wege and Warnick.

Referred to Committee on General Government Appropriations.

March 27, 2009

SSB 5005 Prime Sponsor, Committee on Agriculture & Rural Economic Development: Regarding naturally raised beef cattle. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) "Department" means the department of agriculture.

(2) "Director" means the director of the department of agriculture or the director's designee.

(3) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(4) "Represent" means to hold out as or to advertise.

(5) "Sell" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

**NEW SECTION. Sec. 2.** (1) The department may administer a program to certify beef cattle from Washington as either Washington-certified naturally raised beef cattle or Washington-certified naturally raised grass-fed beef cattle.

(2) To qualify as Washington-certified naturally raised beef cattle, cattle must be born and raised in Washington and raised and finished in compliance with "United States standards for livestock and meat marketing claims, naturally raised claim for livestock and the meat and meat products derived from such livestock," 74 Fed. Reg. 3541 (2009).

(3) To qualify as Washington-certified naturally raised grass-fed beef cattle, cattle must meet the requirements of subsection (2) of this section and must also be raised and finished in compliance with "United States standards for livestock and meat marketing claims, grass (forage) fed claim for ruminant livestock and the meat products derived from such livestock," 72 Fed. Reg. 58631 (2007).

**NEW SECTION. Sec. 3.** The department may adopt rules that:

(1) Specify certification standards, including recordkeeping and verification protocols that require:

(a) Maintaining cattle birth and health records, including vaccine lot numbers, vaccine manufacturers, and vaccination dates; and

(b) At least one inspection of the farm or ranch of origin; and

(2) Establish necessary fees to recover costs of providing certification and inspection or other services.

**NEW SECTION. Sec. 4.** To be labeled, sold, or represented as beef from either Washington-certified naturally raised beef cattle or Washington-certified naturally raised grass-fed beef cattle, the beef must have been harvested from cattle certified under standards established under this chapter.

**NEW SECTION. Sec. 5.** All moneys collected under this chapter must be paid to the director, deposited in an account within the agricultural local fund, and used solely for carrying out the purposes of this chapter and rules adopted under this chapter.

**NEW SECTION. Sec. 6.** The director may enter at reasonable times as determined by the director and inspect any facility and any records required under this chapter. The director may take for inspection those representative samples necessary to determine whether this chapter or rules adopted under this chapter have been violated.

**NEW SECTION. Sec. 7.** The director may bring an action to enjoin any violation of this chapter or rule adopted under this chapter in the superior court of Thurston county or of any county in which a violation occurs, notwithstanding the existence of other remedies at law.

**NEW SECTION. Sec. 8.** Any person who violates the provisions of this chapter or rules adopted under this chapter may be subject to:

(1) A civil penalty in an amount of not more than five hundred dollars for each violation; and

(2) Denial, revocation, or suspension of any certification issued under this chapter. Upon notice by the director to deny, revoke, or suspend a certification, a person may request a hearing under chapter 34.05 RCW.

**NEW SECTION. Sec. 9.** Sections 1 through 8 of this act constitute a new chapter in Title 15 RCW.

**NEW SECTION. Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Blake, Chair; Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks; Kretz; Liias; McCoy; Ormsby; Pearson and Warnick.

MINORITY recommendation: Do not pass. Signed by Representatives Nelson and Van De Wege.

Referred to Committee on General Government Appropriations.

March 26, 2009

SSB 5160 Prime Sponsor, Committee on Judiciary: Concerning service of notice from seizing law enforcement agencies. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 5, line 37, after "seizure" insert "in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property"

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 26, 2009

ESB 5200 Prime Sponsor, Senator Brandland: Concerning marauding dogs. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 16.08.030 and 1929 c 198 s 7 are each amended to read as follows:

It shall be the duty of any person owning or keeping any dog or dogs which shall be found killing any domestic animal to kill such dog or dogs within forty-eight hours after being notified of that fact, and any person failing or neglecting to comply with the provisions of this section shall be deemed guilty of a misdemeanor((~~, and it shall be the duty of the sheriff or any deputy sheriff to kill any dog found running at large (after the first day of August of any year and before the first day of March in the following year) without a metal identification tag~~))."

Correct the title.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 27, 2009

SSB 5286 Prime Sponsor, Committee on Human Services & Corrections: Regarding exemptions from the WorkFirst program. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.08A.270 and 2007 c 289 s 1 are each amended to read as follows:

(1) Good cause reasons for failure to participate in WorkFirst program components include: (a) Situations where the recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; or (b) the recipient is a parent with a child under the age of one year.

(2) A parent claiming a good cause exemption from WorkFirst participation under subsection (1)(b) of this section shall not be required to participate in any activities during the first ninety days following the birth of the child. Thereafter, the parent may be required to participate in one or more of the following, up to a maximum total of twenty hours per week, if such treatment, services, or training is indicated by the comprehensive evaluation or other assessment:

(a) Mental health treatment;

(b) Alcohol or drug treatment;

(c) Domestic violence services; or

(d) Parenting education or parenting skills training, if available.

(3) The department shall: (a) Work with a parent claiming a good cause exemption under subsection (1)(b) of this section to identify and access programs and services designed to improve parenting skills and promote child well-being, including but not limited to home visitation programs and services; and (b) provide information on the availability of home visitation services to temporary assistance for needy families caseworkers, who shall inform clients of the availability of the services. If desired by the client, the caseworker shall facilitate appropriate referrals to providers of home visitation services.

(4) Nothing in this section shall prevent a recipient from participating in the WorkFirst program on a voluntary basis.

(5) A parent is eligible for a good cause exemption under subsection (1)(b) of this section for a maximum total of twelve months over the parent's lifetime.

(6) The grant to an assistance unit of an eligible parent claiming a good cause exemption under subsection (1)(b) of this section shall not be reduced due to sanction for failure to participate in the activities described under subsection (2) of this section. The department may, however, assign a protective payee when a parent in need of mental health or substance abuse treatment refuses to engage in treatment, and shall continue its efforts to engage parents in appropriate supportive services and treatment programs."

Signed by Representatives Blake, Chair; Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks; Kretz; Liias; McCoy; Ormsby; Pearson and Warnick.

Referred to Committee on Health & Human Services Appropriations.

March 27, 2009

SSB 5318 Prime Sponsor, Committee on Human Services & Corrections: Adding additional appropriate locations for the transfer of newborn children. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 11, after "(iii)" strike all material through "(c)" on line 15 and insert "a federally designated rural health clinic during its hours of operation.

(b)"

On page 1, line 17, strike "(((~~c~~))) (d)" and insert "(c)"

On page 1, line 19, after "or" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 28, after "A" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 31, after "The" strike "medical clinic" and insert "federally designated rural health clinic"

On page 2, line 33, after "hospital," strike "medical clinic" and insert "federally designated rural health clinic"

Beginning on page 2, line 36, after "(4)(a)" strike all material through "sign." on page 3, line 11, and insert "Beginning July 1, 2011, an appropriate location shall post a sign indicating that the location is an option for the safe and legal transfer of a newborn.

(b) To cover the costs of acquiring and placing signs, appropriate locations may accept nonpublic funds and donations."

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel; Goodman and Seaquist.

Passed to Committee on Rules for second reading.

March 27, 2009

ESSB 5321 Prime Sponsor, Committee on Ways & Means: Extending a local sales and use tax that is credited against the state sales and use tax. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.415 and 2006 c 361 s 1 are each amended to read as follows:

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

(a) The city has commenced annexation of an area ((~~under chapter 35.13 or 35A.14 RCW~~)) having a population of at least ten thousand people prior to January 1, ((~~2010~~)) 2015; and

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

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

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section ((~~shall be 0.2 percent for the total number of annexed areas the city may annex. The rate of the tax imposed under this section~~)) is:

(i) 0.1 percent for each annexed area in which the population ((~~that~~)) is greater than ten thousand and less than twenty thousand((~~. The rate of the tax imposed under this section shall be~~)); and

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

(b) The maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than ten thousand and the area is annexed by a city with a population greater than four hundred thousand.

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

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

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

(5) The tax imposed by this section shall only be imposed at the beginning of a fiscal year and shall continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas shall be effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection ((~~(8)~~)) (9) of this section.

((~~(5)~~)) (6) All revenue collected under this section shall be used solely to provide, maintain, and operate municipal services for the annexation area.

((~~(6)~~)) (7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city shall notify the department and the tax distributions authorized in this section shall be suspended for the remainder of the year.

((~~(7)~~)) (8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city shall adopt an ordinance that includes the following:

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

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

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

((~~(8)~~)) (9) The tax shall cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city shall provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section shall begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount shall belong to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, shall not be carried forward to the next fiscal year.

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

((~~(9)~~)) (11) The following definitions apply throughout this section unless the context clearly requires otherwise:

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

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

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

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

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

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

(((~~(e)~~))) (g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (((~~(6)~~))) (7) of this section that the department shall distribute to the city generated from the tax imposed under this section in a fiscal year.

**Sec. 2.** RCW 9.46.295 and 1974 ex.s. c 155 s 6 are each amended to read as follows:

(1) Any license to engage in any of the gambling activities authorized by this chapter as now exists or as hereafter amended, and issued under the authority thereof shall be legal authority to engage in the gambling activities for which issued throughout the incorporated and unincorporated area of any county, except that a city located therein with respect to that city, or a county with respect to all areas within that county except for such cities, may absolutely prohibit, but may not change the scope of license, any or all of the gambling activities for which the license was issued.

(2) A city or town with a prohibition or limitation on house-banked social card game licenses that annexes an area that is within a county that permits house-banked social card games may allow a house-banked social card game business that existed at the time of annexation to continue operating if the city or town is authorized to impose a tax under RCW 82.14.415 and can demonstrate that the continuation of the house-banked social card game business will reduce the credit against the state sales and use tax as provided in RCW 82.14.415(7). A city or town that allows a house-banked social card game business in an annexed area to continue operating is not required to allow additional house-banked social card game businesses."

Correct the title.

Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks; Santos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member Parker, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5402 Prime Sponsor, Committee on Judiciary: Regarding the prevention of animal cruelty. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 5, line 9, after "second" insert "or subsequent"

On page 5, line 11, after "has" strike all material through "for" on line 12 and insert "no more than two convictions of animal cruelty and each conviction is for animal"

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 27, 2009

2SSB 5433 Prime Sponsor, Committee on Ways & Means: Modifying provisions of local option taxes. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read as follows:

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

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

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

(4) One-third of all money received under this section ((~~shall~~)) must be used solely for criminal justice purposes, fire protection purposes, or both. For the purposes of this subsection, "criminal justice purposes" ((~~means additional police protection, mitigation of congested court systems, or relief of overcrowded jails or other local correctional facilities~~)) has the same meaning as provided in RCW 82.14.340.

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

**Sec. 2.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read as follows:

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

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal one-tenth of one percent of the selling

price in the case of a sales tax, or value of the article used, in the case of a use tax.

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

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except a portion of moneys collected under this section ((~~shall not~~)) may be used to supplant existing funding for these purposes((~~, provided that~~)) in any county as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to ten percent may be used to supplant existing funding in calendar year 2014.

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

**Sec. 3.** RCW 84.55.050 and 2008 c 319 s 1 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made, except as provided in subsection (2) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state the conditions, if any, which are applicable under subsection (4) of this section.

(2)(a) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the limited purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used((~~, and funds raised under the levy shall not supplant existing funds used for these purposes~~)).

(b)(i) Except as otherwise provided in this subsection (2)(b), funds raised by a levy under this subsection shall not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

(ii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar years 2009, 2010, and 2011, in any county with a population of one million five hundred thousand or more. This subsection (2)(b)(ii) only applies to levies approved by the voters after the effective date of this act.

(iii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar year 2009 and thereafter in any county with a population less than one million five hundred thousand. This subsection (2)(b)(iii) only applies to levies approved by the voters after the effective date of this act.

(3) After a levy authorized pursuant to this section is made, the dollar amount of such levy may not be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, unless the ballot proposition expressly states that the levy made under this section will be used for this purpose.

(4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Use the dollar amount of a levy under subsection (1) of this section, or the dollar amount of the final levy under subsection (2) of this section, for the purpose of computing the limitations for subsequent levies provided for in this chapter;

(b) Limit the period for which the increased levy is to be made under (a) of this subsection;

(c) Limit the purpose for which the increased levy is to be made under (a) of this subsection, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

(d) Set the levy or levies at a rate less than the maximum rate allowed for the district; or

(e) Include any combination of the conditions in this subsection.

(5) Except as otherwise expressly stated in an approved ballot measure under this section, subsequent levies shall be computed as if:

(a) The proposition under this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the proposition.

**NEW SECTION. Sec. 4.** (1) A county may adopt an ordinance creating a rural public safety and infrastructure district in all of the unincorporated area of the county. The ordinance creating the district may only be adopted after a public hearing has been held on the creation of the district and the county legislative body makes a finding that it is in the public interest to create the district. The members of the county legislative body, acting in an ex officio capacity and independently, shall compose the governing body of a district.

(2) A rural public safety and infrastructure district is a quasi-municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution.

(3) A rural public safety and infrastructure district shall have the authority to contract under chapter 39.34 RCW with a county, city, town, or other municipality for the provision of services and capital projects within the district.

(4) This section expires January 1, 2015.

**NEW SECTION. Sec. 5.** (1) A rural public safety and infrastructure district created under section 4 of this act may impose an excise tax on the privilege of engaging in business as a utility. The tax is equal to the gross income derived from providing service to consumers within the district multiplied by the rate provided in subsection (2) of this section. A district located in a county with a population of one million five hundred thousand or less may not impose an excise tax on the privilege of engaging in business as a gas utility.

(2) A district may not impose a rate of tax that exceeds six percent, except a district located in a county with a population of one million five hundred thousand or less may not impose a rate that exceeds one percent on an electrical power utility.

(3) A rural public safety and infrastructure district must use taxes collected under the authority of this section only for public safety, infrastructure, capital projects, and other services provided within the district.

(4) A utility subject to tax under this section must add the tax to the rates or charges it makes for utility services and separately state the amount of tax on billings.

(5) A rural public safety and infrastructure district may initially impose the tax authorized under this section only on the first day of a calendar quarter and no sooner than seventy-five days from the date the district adopts the ordinance or resolution imposing the tax.

(6) A rural public safety and infrastructure district may provide exemptions for sales by utilities to business customers, such as manufacturing facilities, aircraft repair facilities, industrial parks, industrial facilities, farm businesses, and computer data centers. A district may not provide a general exemption for sales by utilities to residential customers unless business customers are also exempt.

(7) A rural public safety and infrastructure district must allow a credit against the cable service utility tax for any franchise fee paid by the cable service utility to the county.

(8) A rural public safety and infrastructure district must allow a credit against a tax imposed under the authority of this section for the amount of any similar utility tax imposed by a city or town on the same taxable event. The credit required by this subsection may not exceed the amount of tax otherwise due.

(9) A rural public safety and infrastructure district located in a county with a population of one million five hundred thousand or more may not impose the tax authorized under this section after January 1, 2015.

(10) The definitions in this subsection apply to this section.

(a) "Cable service utility" means a person providing cable service as defined in the federal telecommunications act of 1996.

(b) "Electrical power utility" has the same meaning as light and power business as defined in RCW 82.16.010.

(c) "Gas utility" has the same meaning as gas distribution business as defined in RCW 82.16.010.

(d) "Gross income" is defined as provided in RCW 82.16.010.

(e) "Sewer utility" means a sewerage collection business as defined in RCW 82.16.020.

(f) "Solid waste utility" means a solid waste collection business as defined in RCW 82.18.010.

(g) "Telephone utility" means a person providing telecommunications service as defined in RCW 82.04.065.

(h) "Water utility" means a water distribution business as defined in RCW 82.16.010.

(i) "Utility" means an electrical power utility, gas utility, telephone utility, water utility, sewer utility, solid waste utility, or cable service utility. "Utility" also means a water-sewer district formed under Title 57 RCW.

**Sec. 6.** RCW 36.54.130 and 2007 c 223 s 6 are each amended to read as follows:

(1) To carry out the purposes for which ferry districts are created, the governing body of a ferry district may levy each year an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value, except a ferry district in a county with a population of one million five hundred thousand or more may not levy at a rate that exceeds seven and one-half cents per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown to be required by the budget prepared by the governing body of the ferry district.

(2) A tax imposed under this section may be used only for:

(a) Providing ferry services, including the purchase, lease, or rental of ferry vessels and dock facilities;

(b) The operation, maintenance, and improvement of ferry vessels and dock facilities;

(c) Providing shuttle services between the ferry terminal and passenger parking facilities, and other landside improvements directly related to the provision of passenger-only ferry service; and

(d) Related personnel costs.

**NEW SECTION. Sec. 7.** A new section is added to chapter 84.52 RCW to read as follows:

(1) A county with a population of one million five hundred thousand or more may impose an additional regular property tax levy in an amount not to exceed seven and one-half cents per thousand dollars of the assessed value of property in the county in accordance with the terms of this section.

(2) Any tax imposed under this section shall be used as follows:

(a) Thirteen and one-third percent for expanding transit capacity along state route number 520 by adding core and other supporting bus routes;

(b) The remainder for transit-related expenditures.

(3) The limitations in RCW 84.52.043 do not apply to the tax authorized in this section.

(4) The limitation in RCW 84.55.010 does not apply to the first tax levy imposed under this section.

**Sec. 8.** RCW 84.52.043 and 2005 c 122 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named shall be as follows:

(1) Levies of the senior taxing districts shall be as follows: (a) The levy by the state shall not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county shall not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy by any road district shall not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by any city or town shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value. However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents

per thousand dollars of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed five dollars and ninety cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection shall not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing for very low-income housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; ((~~and~~)) (i) the portions of levies by fire protection districts that are protected under RCW 84.52.125; and (j) levies by counties for transit-related purposes under section 7 of this act.

**Sec. 9.** RCW 84.52.010 and 2007 c 54 s 26 are each amended to read as follows:

Except as is permitted under RCW 84.55.050, all taxes shall be levied or voted in specific amounts.

The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county shall be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor shall recompute and establish a consolidated levy in the following manner:

(1) The full certified rates of tax levy for state, county, county road district, and city or town purposes shall be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy shall take precedence over all other levies and shall not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, ((~~and~~)) 84.52.135, and section 8 of this act, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies shall be reduced as follows:

(a) The levy imposed by a county under section 8 of this act shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

(b) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

(((~~b~~))) (c) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~c~~))) (d) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~d~~))) (e) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated;

(((~~e~~))) (f) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, shall be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or shall be eliminated; and

(((~~f~~))) (g) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(2) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property shall be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(a) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 shall be reduced on a pro rata basis or eliminated;

(b) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts shall be reduced on a pro rata basis or eliminated;

(c) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, shall be reduced on a pro rata basis or eliminated;

(d) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, shall be reduced on a pro rata basis or eliminated;

(e) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and

regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) shall be reduced on a pro rata basis or eliminated; and

(f) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, shall be reduced on a pro rata basis or eliminated.

**Sec. 10.** RCW 47.26.086 and 1994 c 179 s 11 are each amended to read as follows:

(1) Transportation improvement account projects selected for funding programs after fiscal year 1995 are governed by the requirements of this section.

(2) The board shall allocate funds from the account by June 30th of each year for the ensuing fiscal year to urban counties, cities with a population of five thousand and over, and to transportation benefit districts. Projects may include, but are not limited to, multi-agency projects and arterial improvement projects in fast-growing areas. The board shall endeavor to provide geographical diversity in selecting improvement projects to be funded from the account.

(3) The intent of the program is to improve mobility of people and goods in Washington state by supporting economic development and environmentally responsive solutions to our statewide transportation system needs.

(4) To be eligible to receive these funds, a project must be consistent with the Growth Management Act, the Clean Air Act including conformity, and the Commute Trip Reduction Law and consideration must have been given to the project's relationship, both actual and potential, with the statewide rail passenger program and rapid mass transit. Projects must be consistent with any adopted high capacity transportation plan, must consider existing or reasonably foreseeable congestion levels attributable to economic development or growth and all modes of transportation and safety, and must be partially funded by local government or private contributions, or a combination of such contributions. Priority consideration shall be given to those projects with the greatest percentage of local or private contribution, or both.

(5) A city or town located within a county with a population of one million five hundred thousand or more may not qualify for new grants after December 31, 2014, until all potential annexation areas have been annexed. This subsection (5) only applies to potential annexation areas that are: (a) Recognized in the city or town's comprehensive plan or related document as such plan or related document exists on the effective date of this act; and (b) estimated to have a population in excess of four thousand. The 2014 date in this subsection is 2020 for any city or town located partially in a county with a population of one million five hundred thousand or more and partially in another county.

(6) Within one year after board approval of an application for funding, the lead agency shall provide written certification to the board of the pledged local and private funding for the phase of the project approved. Funds allocated to an applicant that does not certify its funding within one year after approval may be reallocated by the board.

**NEW SECTION. Sec. 11.** A new section is added to chapter 43.155 RCW to read as follows:

A city or town located within a county with a population of one million five hundred thousand or more may not qualify for new loans or pledges after December 31, 2014, until all potential annexation areas have been annexed. This section only applies to potential annexation areas that are: (1) Recognized in the city's or town's comprehensive plan or related document as such plan or related document exists on the effective date of this act; and (2) estimated to have a population in excess of four thousand.

**NEW SECTION. Sec. 12.** A new section is added to chapter 35.21 RCW to read as follows:

(1) Subject to the requirements of this section, a city or town may impose a tax upon the gross income of a water-sewer district formed under Title 57 RCW.

(2) A city or town imposing the tax authorized under this section may not impose a rate of tax that exceeds six percent. A city or town may impose the tax only upon the gross income of a water-sewer district derived from services provided within the city or town.

(3) A city or town imposing the tax authorized under this section must allow a credit against the tax for any franchise fee paid by a water-sewer district to the city or town.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.09 RCW to read as follows:

(1) By January 1, 2011, the state auditor shall conduct a performance audit of any county with a population of one million five hundred thousand or more to specifically determine whether policy changes and programs the county has adopted since January 1, 2009, will effectively reduce overhead and other costs, improve services, and streamline operations. The performance audit must identify current deficiencies in recognized best practices in the provision of county goods and services and how the provision of these goods and services could be provided more efficiently and effectively. As part of the performance audit, the auditor shall also evaluate the amount of local and regional services provided by the county within and outside city limits and contrast this with other large counties in Washington and with counties of similar size in other states. The state auditor shall use money distributed to the auditor under RCW 82.08.020(5) to pay for the performance audit required under this section.

(2) This section expires January 1, 2012.

**NEW SECTION. Sec. 14.** The legislature reaffirms its intent that the statutes authorizing the local taxation of brokered natural gas and manufactured gas as provided by chapter 384, Laws of 1989 and RCW 82.12.010(5) result in the fair and equitable taxation of all natural and manufactured gas users, from large industrial consumers to small residential users, and it is the legislature's intent that the taxation of such gas by local jurisdictions be at the place of consumption.

**Sec. 15.** RCW 82.12.010 and 2006 c 301 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Purchase price" means the same as sales price as defined in RCW 82.08.010((~~.~~));

(2)(a) "Value of the article used" shall be the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used shall be determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax;

(3) "Value of the service used" means the purchase price for the service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used shall be determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe;

(4) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used shall be determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe;

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

(a) With respect to tangible personal property, except for natural gas and manufactured gas, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state; ((~~and~~))

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state; and

(d) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer;

(6) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(7)(a)(i) Except as provided in (a)(ii) of this subsection (7), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, or a sale of any service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

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

(9) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons

within this state by a consumer as defined in this subsection (9), the use of the property shall be deemed to be by such consumer.

**Sec. 16.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s c 32 s 33 are each reenacted and amended to read as follows:

(1) The legislative authority of any county or city shall identify in the adopted budget the capital projects and park maintenance and operation expenditures, or both, funded in whole or in part from the proceeds of the tax authorized in this section((~~, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects~~)).

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3)(a) Revenues generated from the tax imposed under subsection (2) of this section shall be used by such counties and cities ((~~solely~~)) for financing capital projects specified in a capital facilities plan element of a comprehensive plan, and, until January 1, 2014, at the option of the city or county, park maintenance and operation expenditures. Only cities with a population less than fifty thousand and counties with a population less than two hundred fifty thousand may use revenues for park maintenance and operation expenditures. However, revenues (((~~(a)~~))) (i) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, and ((~~(b)~~)) (ii) committed to a project may continue to be used for that purpose until the project is completed.

(b) Counties, cities, and towns using revenues generated by the tax imposed under this section for park maintenance and operation expenditures may not use these revenues for the acquisition of capital projects specified in a capital facilities plan element of a comprehensive plan. This subsection (3)(b) does not apply to capital projects that are necessary for the health and safety of residents within the county, city, or town imposing the tax.

(4) Revenues generated by the tax imposed by this section shall be deposited in a separate account.

(5) As used in this section, "city" means any city or town and "capital project" means, except as provided by subsection (3) of this section, those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems((~~, and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks~~)) parks, recreational facilities, law enforcement facilities, fire protection facilities, trails, libraries, administrative and/or judicial facilities, and river and water flood control facilities. "Capital projects" after December 31, 2013, include expenditures for the planning, construction, reconstruction, repair, rehabilitation, or improvement of parks. "Capital projects" after December 31, 2013, do not include expenditures for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of recreational facilities, law enforcement facilities, fire protection facilities, trails, libraries, administrative facilities, judicial facilities, and river and water flood control facilities.

(6) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section shall be temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

**NEW SECTION. Sec. 17.** By December 1, 2013, the Washington state association of counties and the association of Washington cities shall provide a report to the legislature on the following:

(1) The number of cities and counties using tax revenue under RCW 82.46.035 for park maintenance and operation expenditures;

(2) The amount of tax revenue under RCW 82.46.035 dedicated by cities and counties for park maintenance and operation expenditures; and

(3) The tax collections and population growth for calendar years 2009, 2010, 2011, and 2012 for cities and counties using tax revenue under RCW 82.46.035 for park maintenance and operation expenditures.

**NEW SECTION. Sec. 18.** Sections 4 and 5 of this act constitute a new chapter in Title 36 RCW.

**NEW SECTION. Sec. 19.** Sections 1 and 2 of this act expire January 1, 2015."

Correct the title.

Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway; Ericks and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member and Santos.

Passed to Committee on Rules for second reading.

March 26, 2009

SSB 5461 Prime Sponsor, Committee on Financial Institutions, Housing & Insurance: Concerning reserve account and study requirements for condominium associations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 64.34 RCW to read as follows:

(1) A condominium association with ten or fewer unit owners is not required to follow the requirements under RCW 64.34.380 through 64.34.390 if two-thirds of the owners agree to exempt the association from the requirements.

(2) The unit owners must agree to maintain an exemption under subsection (1) of this section by a two-thirds vote every three years.

(3) Notwithstanding subsections (1) and (2) of this section, a disclosure that the condominium association does not have a reserve study must be included in a unit's public offering statement as required under RCW 64.34.410 or resale certificate as required under RCW 64.34.425."

Correct the title.

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Passed to Committee on Rules for second reading.

March 23, 2009

SB 5482 Prime Sponsor, Senator Haugen: Modifying provisions governing two-wheeled and three-wheeled vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 8, after line 8, insert the following:

"**NEW SECTION. Sec. 9.** A new section is added to chapter 47.36 RCW to read as follows:

(1) For the purposes of this section:

(a) "Arterial" means a public road or highway that is designated or qualifies as a principal or minor arterial under a state or local law, ordinance, regulation, or plan.

(b) "Bicycle" means a human-powered vehicle with metallic wheels at least sixteen inches in diameter or with metallic braking strips and metallic components, not necessarily including the frame or fork, which may be lawfully ridden on a public road or highway.

(c) "Bicycle route" means a route (i) that is designated as a route for bicycle use in a state or local law, ordinance, rule, or plan, or (ii) that provides bicycle access to urban areas that are not reasonably and conveniently accessible through other bicycle routes. The level of existing or projected use by bicyclists is a factor to consider in determining whether a bicycle route provides access that is not reasonably and conveniently available from other bicycle routes. An intersection that provides necessary linkages in a bicycle route or between routes is considered a part of the bicycle route or routes.

(d) "Design complete" means that all major design work for a new vehicle-activated traffic control signal has been completed and that the funding necessary for complete construction of the vehicle-activated traffic control signal has been firmly secured.

(e) "Existing vehicle-activated traffic control signal" means a vehicle-activated traffic control signal that is in use or design complete on or before the effective date of this section.

(f) "Motorcycle" means a motor vehicle (i) designed to travel on not more than three wheels in contact with the ground, (ii) ridden by a driver astride the motor unit or power train, (iii) designed to be steered with a handle bar, and (iv) capable in its present condition of being lawfully operated on a public road or highway.

(g) "Restricted right turn lane" means a right turn only lane where a right turn is not allowed after stopping but only upon a green signal.

(h) "Routinely and reliably detect motorcycles and bicycles" means that the detection equipment at a vehicle-activated traffic control signal is capable of detecting and will reliably detect a motorcycle or bicycle (i) when the motorcycle or bicycle is present immediately before a stop line or crosswalk in the center of a lane at an intersection or road entrance to such an intersection, or (ii) when the motorcycle or bicycle is present at marked detection areas.

(i) "Vehicle-activated traffic control signal" means a traffic control signal on a public road or highway that detects the presence of a vehicle as a means to change a signal phase.

(2) During routine maintenance or monitoring activities, but subject to the availability of funds:

(a) All existing vehicle-activated traffic control signals that do not currently routinely and reliably detect motorcycles and bicycles must be adjusted to do so to the extent that the existing equipment is capable consistent with safe traffic control. Priority must be given to existing vehicle-activated traffic control signals for which complaints relating to motorcycle or bicycle detection have been received and existing vehicle-activated traffic control signals that are otherwise identified as a detection problem for motorcyclists or bicyclists, or both. Jurisdictions operating existing vehicle-activated traffic control signals shall establish and publicize a procedure for filing these complaints in writing or by e-mail, and maintain a record of these complaints and responses; and

(b) Where motorcycle and bicycle detection is limited to certain areas other than immediately before the stop line or crosswalk in the center of a lane at an existing vehicle-activated traffic control signal, those detection areas must be clearly marked on the pavement at left turn lanes, through lanes, and limited right turn lanes. These detection areas must also be marked to allow a bicyclist to leave a bicycle lane to enter a detection area, if necessary, to cross an intersection. Pavement markings must be consistent with the standards described in the state of Washington's "Manual on Uniform Traffic Control Devices for Streets and Highways" obtainable from the department of transportation.

(3)(a) If at least a substantial portion of detection equipment at an existing vehicle-activated traffic control signal on an arterial or bicycle route is scheduled to be replaced or upgraded, the replaced or upgraded detection equipment must routinely and reliably detect motorcycles and bicycles. For purposes of this subsection (3)(a), "substantial portion" means that the proposed replacement or upgrade will cost more than twenty percent of the cost of full replacement or upgraded detection equipment that would routinely and reliably detect motorcycles and bicycles.

(b) If at least a substantial portion of detection equipment at an existing vehicle-activated traffic control signal on a public road or highway that is not an arterial or bicycle route is scheduled to be replaced or upgraded, the replaced or upgraded detection equipment must routinely and reliably detect motorcycles and bicycles. For purposes of this subsection (3)(b), "substantial portion" means that the proposed replacement or upgrade will cost more than fifty percent of the cost of full replacement or upgraded detection equipment that would routinely and reliably detect motorcycles and bicycles.

(4) All vehicle-activated traffic control signals that are design complete and put in operation after the effective date of this section must be designed and operated, when in use, to routinely and reliably detect motorcycles and bicycles, including the detection of bicycles in bicycle lanes that cross an intersection."

Correct the title.

Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Rodne, Assistant Ranking Minority Member; Campbell; Driscoll; Eddy; Flannigan; Klippert; Moeller; Rolfes; Sells; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Armstrong; Cox; Ericksen; Finn; Herrera; Johnson; Kristiansen and Shea.

Passed to Committee on Rules for second reading.

March 27, 2009

ESB 5617 Prime Sponsor, Senator Kauffman: Changing early learning advisory council provisions. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ((~~community needs and progress~~)) issues leading to the building of a comprehensive system of quality early learning programs and services for Washington's children and families by aligning resources, establishing key performance measures, and ensuring children are ready for school.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ((~~crosses systems and sectors to promote~~)) guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ((~~to ensure~~)) ensuring school readiness. Beginning August 1, 2009, the plan shall be submitted via electronic file annually to the appropriate committees of the legislature.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously. If an appointed member of the council is unable to attend three consecutive council meetings, a replacement representative shall be appointed to serve the remainder of the term of the initial appointee.

(5) The council shall consist of not more than twenty-five members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, the workforce training and education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint at least seven leaders in early childhood education, with at least one representative with experience or expertise in each of the following areas: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) Two representatives of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(8) The department shall provide staff support to the council."

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel; Goodman and Seaquist.

Passed to Committee on Rules for second reading.

March 27, 2009

ESSB 5811 Prime Sponsor, Committee on Human Services & Corrections: Concerning foster child placements. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall make an express finding regarding the department's efforts;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), ((~~unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered~~)) if the court determines that placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW

13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 2.** RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) ((~~in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii)~~)) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (iii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. ((~~Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such~~)) The court shall consider the child's existing relationships and attachments in order to minimize disruption when determining whether the child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (B) a suitable person as described in this subsection (1)(b); and (((~~(B)~~))) (C) willing, appropriate, and available to care for the child.

(2) Placement of the child with a relative ((~~under this subsection~~)) or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into

nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 3.** RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) ((~~Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW,~~)) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

**Sec. 4.** RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a

compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall ((~~also~~)):

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096; and

(ii) In the situation in which the department or supervising agency is recommending a placement other than the current placement with a foster parent, relative, or other suitable person, make an express finding of the reasons the department or agency is recommending that the child be moved.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**NEW SECTION. Sec. 5.** A new section is added to chapter 13.34 RCW to read as follows:

(1) At a disposition, review, or any other hearing that occurs after a dependency is established under this chapter, the court shall ensure that a dependent child over the age of twelve, who is otherwise present in the courtroom, is aware of and understands the duties and responsibilities the department has to a child subject to a dependency including, but not limited to, the following:

(a) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(b) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(c) Parent-child visits;

(d) Statutory preference for placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), if appropriate; and

(e) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(2) If the dependent child is already represented by counsel, the court need not comply with subsection (1) of this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts shall develop standard court forms and format rules for mandatory use by parties in dependency matters commenced under this chapter or chapter 26.44 RCW. Forms shall be developed not later than November 1, 2009, and the mandatory use requirement shall be effective January 1, 2010. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) According to rules established by the administrative office of the courts, a party may delete unnecessary portions of the forms and may supplement the mandatory forms with additional material.

(3) Failure by a party to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. The court may, however, require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the mandatory forms to all county court clerks. Upon request, the administrative office of the courts and county clerks must distribute the forms to the public and may charge for the cost of production and distribution of the forms. Private vendors also may distribute the forms. Distribution of forms may be in printed or electronic form.

**Sec. 7.** RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. **Sec.** 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(((~~(a)~~))) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(((~~(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.~~

~~(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.~~

~~(iii)~~)) (11) Within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care and necessary support and transition services to youth ages eighteen to twenty-one years who are enrolled and participating in a posthigh school academic or vocational program. A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. ((~~Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.~~

~~(11)~~)) (12) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(((~~(12)~~))) (13) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be

subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(((~~(13)~~))) (14) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(((~~(14)~~))) (15) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(((~~(15)~~))) (16) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(17)(a) Within current funding levels, place on the public web site maintained by the department a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.13 RCW to read as follows:

Once a dependency is established under chapter 13.34 RCW, the social worker assigned to the case shall provide a dependent child, age twelve years or older with a document containing the information contained in RCW 74.13.031(17). The social worker shall also explain the content of the document to the child and direct the child to the department's web site for further information. The social worker shall document, in the electronic data system, that this requirement was met.

**Sec. 9.** RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

(1) A foster parent who believes that a department employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(((~~(1)~~))) (a) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, or the department, provided information, or otherwise cooperated with the investigation of such a complaint;

(((~~(2)~~))) (b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(((~~(3)~~))) (c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(((~~(4)~~))) (d) The foster parent has advocated for services on behalf of the foster child;

(((~~(5)~~))) (e) The foster parent has sought to adopt a foster child in the foster parent's care; or

(((~~(6)~~))) (f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ombudsman.

(2) Pursuant to chapter 43.06A RCW, the ombudsman may investigate the allegations of retaliation. The ombudsman shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ombudsman shall provide its findings in written form to the department.

(3) The office of the family and children's ombudsman shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department and foster parents."

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Angel; Goodman and Seaquist.

Referred to Committee on Health & Human Services Appropriations.

March 27, 2009

E2SSB 5943 Prime Sponsor, Committee on Ways & Means: Requiring performance-based contracts for the provision of child welfare services. Reported by Committee on Early Learning & Children's Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that extensive research conducted by the Washington state institute for public policy demonstrates the potential for appreciable savings in the state's child welfare budget by deploying a core set of evidence-based and promising programs designed to strengthen families and prevent children from entering the foster care system and reducing the length of stay for children who do enter the system. The legislature further finds that achieving improved outcomes for child safety and long-term family strength and well-being requires renewed thinking and a greater emphasis on expanding the capacity to deliver evidence-based and promising prevention and intervention services, earlier positive engagement with parents and children, more flexibility to focus on timely permanency outcomes, and more effective utilization of community resources and private partners. The legislature also finds that the goal of achieving lasting change in the state's child welfare system requires building and sustaining the serving capacity of prevention and early intervention programs through the reinvestment of savings from reduced foster care caseloads. The legislature further finds that implementation of these reforms should be approached

through collaborative analysis and planning that includes the relevant state agencies, Indian tribes and recognized Indian organizations, community partners, and other stakeholders. The legislature intends to direct the development of a plan for the first phase of implementation to begin January 1, 2011.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The children's administration within the department shall implement two demonstration reform initiatives utilizing performance-based contracts for an array of evidence-based and promising prevention and intervention services for families who are at risk for an out-of-home placement or have a child in out-of-home care, and for children who are awaiting adoption. Two sites shall be selected, one for each of the following approaches to the implementation of performance-based contracting:

(a) Performance-based contracts shall govern the delivery of all child welfare services, including case management services; voluntary and in-home services; out-of-home care services; and permanency services relating to reunification, guardianship, adoption, and preparation for independent living; and

(b) Performance-based contracts shall govern the delivery of child welfare services to children and families, including voluntary and in-home services; out-of-home care services; and permanency services relating to reunification, guardianship, adoption, and preparation for independent living. Case management services shall continue to be the responsibility of child welfare caseworkers employed by the children's administration.

(2) The children's administration shall retain statewide responsibility for:

(a) Child protection functions and services, including intake and investigation of allegations of child abuse and neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers, services, or programs; and

(b) Licensing functions relating to child protection and child welfare services, including licensing of foster family homes, group homes, and other facilities serving children.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The performance contracting oversight committee is established for the primary purpose of providing expertise, structure, guidance, and oversight for the implementation of sections 1 through 5 of this act. Membership of the committee shall include:

(a) Two representatives from private nonprofit agencies providing child welfare services to children and families referred by the department, including one representative of licensed child placing agencies;

(b) The assistant secretary of the children's administration in the department, who shall serve as cochair of the committee;

(c) One regional administrator and one area administrator in the children's administration selected by the assistant secretary;

(d) The administrator for the division of licensed resources in the children's administration;

(e) Two nationally recognized experts in performance-based contracting;

(f) The attorney general or his or her designee;

(g) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(h) A representative from the office of the family and children's ombudsman;

(i) Two representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(j) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judges' association;

(k) One representative from partners for our children affiliated with the University of Washington school of social work, who shall serve as cochair of the committee;

(l) Two members of the legislature, one from each chamber, selected jointly by the speaker of the house of representatives and the president of the senate; and

(m) A representative of foster care providers.

(2) The cochairs of the committee shall convene the first meeting of the committee by June 15, 2009.

(3) The committee shall develop the criteria for the implementation of performance-based contracts at the demonstration sites in a manner to minimize any potential loss of federal funds. The criteria must be sufficient for the children's administration to develop requests for proposal and must describe:

(a) The services to be delivered under the contracts in order to assure providers have the flexibility to provide adequate, appropriate, and relevant evidence-based and promising services to individual children and families;

(b) The outcome measures to be used to evaluate performance under the contracts and the tools to be utilized to collect and report data on performance;

(c) The procedure for referring families to contracted providers, including clear protocols for continued communication or coordination between contracted providers and the children's administration, and Indian tribes in order to assure child safety and well-being and to promote the family's engagement;

(d) The rate structures of the contracts, including incentives and reinvestments, if any, as well as how performance will be linked to opportunities to bid on future contracts;

(e) A plan for communicating with the multiple child-serving systems within the demonstration site regarding implementation of the contracts, including clear descriptions of new roles and functions of contracted case managers, where appropriate. The communication plan shall include a process for early and ongoing communications throughout the demonstration site, including a process for establishing and maintaining communication with Indian tribes and organizations within the demonstration site;

(f) Methods to be used for monitoring contract performance, assuring quality of services, and ensuring compliance with state and federal laws including, but not limited to, requirements tied to federal funding for foster care, and the Indian child welfare act as well as the related guidelines and protocols established between the state and tribes;

(g) Estimates of start-up costs, including a discussion of how those costs will be distributed under the contracts; and

(h) Recommendations for the distribution of legal and financial risk and liability between the state and contracted partners.

(4) The criteria developed for the demonstration site described in section 2(1)(b) of this act also shall include recommendations for the optimum balance of shared responsibility for delivering child protection services and child welfare services between the state and community-based providers, including a description of the core functions to be performed by each.

(5) The demonstration sites shall be selected by the committee and shall include consideration of:

(a) The infrastructure and capacity of the site for delivering an array of evidence-based and promising prevention and intervention services, paying particular attention to the research developed by the Washington state institute for public policy regarding preventing the need for and reducing the duration of foster care placements;

(b) The willingness and ability of the site's community providers, children's administration staff, and other stakeholders to effectively collaborate in the development and implementation of performance-based contracts for the delivery of child welfare services; and

(c) The existence of multidisciplinary or multisystem work on performance improvement or reform efforts within the site that may harmonize with or support the implementation of performance-based contracts.

(6) After the sites have been selected, the committee shall convene appropriate site transition teams to develop their respective transition plans to implement the contracts. Site teams shall include those persons identified by the assistant secretary and the executive director as being essential to developing a comprehensive transition plan.

(7) The committee shall select the demonstration sites and notify the governor and the legislature of the site selections, and by December 1, 2010, the committee shall brief the governor and the legislature on the phased implementation plans for each site. The phased implementation of contracts shall begin January 1, 2011.

**NEW SECTION. Sec. 4.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The assistant secretary of the children's administration and the director of partners for our children, or their designees, shall provide the governor, the appropriate committees of the legislature, and the performance contracting oversight committee with:

(a) Periodic updates on the development of the transition plans via electronically filed reports or in-person briefings, as convenient or practicable; and

(b) Quarterly updates via electronically filed reports beginning March 31, 2011, of the transition progress and operations at the demonstration sites.

(2) Partners for our children shall evaluate the implementation and operation of the demonstration sites and shall provide annual reports to the performance contracting oversight committee, the legislature, and the governor beginning January 1, 2013. The evaluation shall analyze to what extent the reforms implemented in the demonstration sites have resulted in improved outcomes for children and families, increased efficiencies in the delivery of child welfare services, and enhanced partnerships with community partners and stakeholders.

(3) By December 31, 2013, the assistant secretary of the children's administration and the executive director of partners for our children shall provide the governor and the legislature with recommendations for expansion and continued operation of the demonstration sites, including recommendations for adjustments to operations based on experiences in the demonstration sites.

(4) Based on the recommendations, the governor may direct the children's administration to develop implementation plans and expand the use of performance-based contracts according to the same standards required for development of the demonstration sites as described in this section, or may direct the demonstration to terminate. Any expansion plans shall reflect the recommendations and lessons learned from the evaluation of the demonstration sites.

**NEW SECTION. Sec. 5.** The department of social and health services, the office of financial management, and the caseload forecast council shall develop a proposal for submission to the legislature and the governor for the reinvestment of savings in the demonstration sites into evidence-based prevention and intervention programs designed to prevent the need for or reduce the duration of foster care placements in the demonstration sites. The proposal shall be consistent with the proposed implementation plans developed under sections 2 and 3 of this act and must be submitted to the legislature and the governor by November 30, 2010, and shall include sufficient detail regarding accounting, budgeting, and allocation or other procedures for legislative consideration and approval.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.06 RCW to read as follows:

(1) The children's administration within the department of social and health services may purchase child welfare services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract; and

(d) The children's administration has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on the effective date of this section, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to the effective date of this section, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the children's administration requests bids from private entities for a contract for services provided by classified employees, the children's administration shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the children's administration shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the children's administration of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i)

Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the indirect overhead costs of the function, including the cost of the employees' salaries and benefits, rent, utilities, equipment, materials, and other costs necessary to perform the function and attributed directly to the function in question.

(f) The children's administration may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Children's administration" means the children's administration within the department of social and health services.

(b) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section. "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(d) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

**Sec. 7.** RCW 41.06.142 and 2008 c 267 s 9 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The requirements of this section do not apply to RCW 74.13.031(5) and sections 1 through 6 of this act.

**Sec. 8.** RCW 74.13.020 and 1999 c 267 s 7 are each amended to read as follows:

(1) As used in Title 74 RCW, "child welfare services ((~~shall be defined as public~~))" mean publicly provided or contracted social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(((~~(1)~~))) (a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(((~~(2)~~))) (b) Protecting and caring for dependent or neglected children;

(((~~(3)~~))) (c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;

(((~~(4)~~))) (d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(((~~(5)~~))) (e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

((~~As used in~~)) (2) For purposes of this chapter((~~,~~)) and chapter 74.15 RCW:

(a) "Child" means a person less than eighteen years of age;

(b) "Department" means the department of social and health services or a supervising agency with whom the department has contracted for the provision of child welfare services under sections 1 through 6 of this act.

(3) The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the plan.

**Sec. 9.** RCW 74.15.020 and 2007 c 412 s 1 are each amended to read as follows:

For the purpose of this chapter and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(j) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States immigration and naturalization service, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(3) "Department" means the state department of social and health services or a supervising agency with whom the department has contracted for the provision of child welfare services under sections 1 through 6 of this act. For the purposes of child protective services and licensing, "department" means only the department of social and health services.

(4) "Family child care licensee" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) does not receive child care subsidies; and (c) is licensed by the state under RCW 74.15.030.

(5) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of social and health services.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Supervising agency" means a private nonprofit agency licensed by the state or an Indian tribe with whom the department has contracted under sections 1 through 6 of this act for the provision of child welfare services. In no case may a supervising agency be contracted to license persons or facilities under this title or to provide child protective services.

(11) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**NEW SECTION. Sec. 10.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Goodman and Seaquist.

MINORITY recommendation: Without recommendation. Signed by Representatives Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member and Angel.

Referred to Committee on Ways & Means.

March 26, 2009

E2SSB 6015 Prime Sponsor, Committee on Ways & Means: Creating the position of the director of commercialization and innovation within the office of the governor. (REVISED FOR ENGROSSED: Directing the department of community, trade, and economic development to review commercialization and innovation in the life sciences and technology sectors.) Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) Washington state is fortunate to have a dynamic technology industry sector that benefits from vibrant global demand for its output and that helps drive the state's economy. Washington state is uniquely positioned to shape its future success in innovation in the technology sectors of life sciences and high technology. Nearly every state in the nation is competing to develop a strong innovation economy. Washington has world-class research institutions, entrepreneurial spirit and talent, an actively collaborative community, and an existing foundational sector.

(2) To leverage its potential, the state must actively work to create and ensure a supportive environment that enables entrepreneurial people and companies to convert their innovative ideas into marketable new products and services. Providing such an environment would: Solidify Washington state as a global leader of knowledge and technology commercialization; create more highly rewarding and well-paying careers for Washington's citizens; grow more companies in new and far-reaching markets; renew traditional industries through value-added technology adaptation; and generate solid returns for Washington state.

**NEW SECTION. Sec. 2.** (1) By December 1, 2009, the department of community, trade, and economic development shall report to the governor and the legislature on how the state can best encourage and support the growth of innovation in the development and commercialization of proprietary technology in the life sciences and information technology industries.

(2) In consultation with life sciences trade and technology trade associations, the department shall:

(a) Investigate and recommend strategies to increase the amount of local or regional capital targeted to preseed, seed, and other early stage investments in life sciences and information technology companies;

(b) Examine state laws, rules, appropriations, and taxes related to life sciences and information technology, identify barriers, and recommend alternatives that will support growth of these industries;

(c) Evaluate the state's technology-based economic development efforts and recommend any additional infrastructure needed to assist companies at each stage of the business life cycle; and

(d) Review the status of technology transfer and commercialization efforts by the state's public research universities.

(3) The department shall provide a draft report of its findings and recommendations to the Washington state economic development commission. The commission shall compare the recommendations in the draft report to the overall direction and strategies related to life sciences and information technology adopted in the state's comprehensive economic development plan. The commission shall provide written observations to the department on areas of alignment or nonalignment between the report and the plan. The final report shall include the commission's observations and shall reflect any changes made to the report by the department in response to the commission's comments.

(4) For purposes of the report: (a) "Life sciences" must include but is not limited to: Medical devices and biotechnology as defined in RCW 82.63.010; and (b) "information technology" must include but is not limited to: Hardware, software, and internet infrastructure, that address high potential emerging and growing markets.

(5) The life sciences and information technology industries must provide fifty percent of the total resources required to accomplish the purposes of this section. If the industries do not commit to the department by August 1, 2009, that they will provide these resources, then the requirements of this section are null and void.

(6) This section expires December 31, 2009."

Correct the title.

Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Chase; Liias; Orcutt; Parker; Probst and Sullivan.

Referred to Committee on General Government Appropriations.

There being no objection, the bills and memorials listed on the day's committee reports and supplemental committee reports under the fifth order of business were referred to the committees so designated.

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

There being no objection, the House adjourned until 9:55 a.m., March 31, 2009, the 79th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk