FIFTY NINTH LEGISLATURE - REGULAR SESSION

SIXTY FOURTH DAY

House Chamber, Olympia, Monday, March 14, 2005

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

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Caressa Maltos and Matan Smith. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Reverend Dennis Magnuson, Light of the Hill United Methodist Church, Puyallup.

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

MESSAGES FROM THE SENATE

March 11, 2005

Mr. Speaker:

The Senate has passed:
SUBSTITUTE SENATE BILL NO. 5092,
SUBSTITUTE SENATE BILL NO. 5101,
SUBSTITUTE SENATE BILL NO. 5105,
ENGROSSED SENATE BILL NO. 5110,
SUBSTITUTE SENATE BILL NO. 5132,
SUBSTITUTE SENATE BILL NO. 5169,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5186,
SUBSTITUTE SENATE BILL NO. 5207,
SENATE BILL NO. 5279,
SUBSTITUTE SENATE BILL NO. 5282,
SUBSTITUTE SENATE BILL NO. 5326,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5349,
ENGROSSED SENATE BILL NO. 5381,
ENGROSSED SENATE BILL NO. 5530,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5581,
SECOND SUBSTITUTE SENATE BILL NO. 5638,
SENATE BILL NO. 5803,
SUBSTITUTE SENATE BILL NO. 5850,
SUBSTITUTE SENATE BILL NO. 5903,
SENATE BILL NO. 5993,
SUBSTITUTE SENATE BILL NO. 6001,
SENATE JOINT RESOLUTION NO. 8207,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 12, 2005

Mr. Speaker:

The Senate has passed:
ENGROSSED SENATE BILL NO. 5089,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5121,
SUBSTITUTE SENATE BILL NO. 5414,
SUBSTITUTE SENATE BILL NO. 5709,
SUBSTITUTE SENATE BILL NO. 5822,
SUBSTITUTE SENATE BILL NO. 5832,
SENATE BILL NO. 5833,
ENGROSSED SENATE BILL NO. 5966,
SUBSTITUTE SENATE BILL NO. 5969,
SENATE BILL NO. 5977,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 12, 2005

Mr. Speaker:

The Senate has passed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5098,
SUBSTITUTE SENATE BILL NO. 5104,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5111,
SUBSTITUTE SENATE BILL NO. 5229,
SUBSTITUTE SENATE BILL NO. 5230,
SUBSTITUTE SENATE BILL NO. 5262,
SUBSTITUTE SENATE BILL NO. 5270,
SUBSTITUTE SENATE BILL NO. 5316,
ENGROSSED SENATE BILL NO. 5423,
SENATE BILL NO. 5424,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5509,
SENATE BILL NO. 5518,
SUBSTITUTE SENATE BILL NO. 5623,
SUBSTITUTE SENATE BILL NO. 5729,
SUBSTITUTE SENATE BILL NO. 5862,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

INTRODUCTION & FIRST READING

HB 2289 by Representatives Sommers and Cody

AN ACT Relating to hospital efficiencies.

Referred to Committee on Appropriations.

HB 2290 by Representatives McDonald, Ahern and Kristiansen

AN ACT Relating to drunk driving-related prior offenses; amending RCW 46.61.5055 and 46.61.5058; reenacting and amending RCW 9.94A.525; and prescribing penalties.

Referred to Committee on Judiciary.

HB 2291 by Representative Dickerson

AN ACT Relating to school levies; amending RCW 84.52.0531 and 84.52.0531; providing an effective date; and providing an expiration date.

Referred to Committee on Education.

2SSB 5056 by Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Swecker, Prentice, Kastama, Fairley, Honeyford, Zarelli, Hewitt, Berkey, Fraser, Thibaudeau, Jacobsen, McAuliffe, Rasmussen, Kline and Rockefeller)

AN ACT Relating to creating the department of archaeology and historic preservation; amending RCW 43.17.020, 27.34.020, 27.34.070, 27.34.230, 27.34.330, 27.34.342, 27.34.344, 27.53.020, 27.53.030, 27.53.070, 27.53.080, and 27.53.095; reenacting and amending RCW 43.17.010; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; repealing RCW 27.34.210, 27.34.310, and 27.34.320; and providing an expiration date.

Referred to Committee on State Government Operations & Accountability.

SB 5352 by Senators Esser, Kline, Weinstein, McCaslin, Thibaudeau, Regala, Schmidt, Kohl-Welles, Stevens, Franklin, Finkbeiner, Jacobsen, Rockefeller and Rasmussen

AN ACT Relating to animal cruelty; amending RCW 16.52.205 and 16.52.207; and prescribing penalties.

Referred to Committee on Judiciary.

ESB 5417 by Senators Weinstein, Esser, Jacobsen, Rasmussen, Kastama, Rockefeller, Shin, Carrell, Regala, Kohl-Welles, Pridemore, Franklin, Keiser, Kline, Sheldon and McAuliffe

AN ACT Relating to restricting access to motor vehicles for persons arrested for alcohol offenses; adding new sections to chapter 46.61 RCW; and creating new sections.

Referred to Committee on Judiciary.

ESSB 5445 by Senate Committee on Water, Energy & Environment (originally sponsored by Senators Kline, Pridemore, Esser, Brown, Finkbeiner, Jacobsen, Benson, Swecker, Spanel, Regala, Poulsen, Rockefeller, Rasmussen, Kohl-Welles, Weinstein and McCaslin)

AN ACT Relating to regulation and cleanup of sites with mixed radioactive and hazardous wastes to provide clarification for interpretation of the cleanup priority act consistent with intent and policy of the cleanup priority act as passed by the voters in November 2004; amending RCW 70.105E.030; adding a new section to chapter 70.105E RCW; creating a new section; and declaring an emergency.

Referred to Committee on Technology, Energy & Communications.

SSB 5471 by Senate Committee on Ways & Means (originally sponsored by Senators Thibaudeau, Keiser, Fraser, Berkey, Poulsen, Kline, Franklin, Brown, Haugen, McAuliffe, Rockefeller and Kohl-Welles; by request of Governor Gregoire)

AN ACT Relating to authorizing a prescription drug purchasing consortium; adding new sections to chapter 70.14 RCW; and creating new sections.

Referred to Committee on Health Care.

ESSB 5732 by Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Weinstein, Schmidt, Berkey, Rockefeller, Shin, Prentice, Thibaudeau, Pridemore, Carrell, Kohl-Welles, Regala, Spanel, Fairley, Delvin and Rasmussen)

AN ACT Relating to the powers, duties, and membership of the state board of education and the Washington professional educator standards board and the elimination of the academic achievement and accountability commission; amending RCW 28A.305.130, 28A.300.130, 28A.505.210, 28A.655.070, 28A.410.210, 28A.410.200, 28A.410.010, 28A.410.040, 28A.410.050, 28A.410.060, 28A.410.100, 28A.410.120, 28A.415.023, 28A.415.060, 28A.415.205, 28A.150.060, 28A.170.080, 28A.205.010, 28A.205.050, 28A.405.210, 28B.10.140, 18.118.010, 18.120.010, 28A.300.020, 28A.310.110, and 28A.315.085; adding a new section to chapter 28A.305 RCW; creating new sections; repealing RCW 28A.305.010, 28A.305.020, 28A.305.030, 28A.305.040, 28A.305.050, 28A.305.060, 28A.305.070, 28A.305.080, 28A.305.090, 28A.305.100, 28A.305.110, 28A.305.120, 28A.305.200, 28A.655.020, 28A.655.030, 28A.655.900, and 28A.660.901; providing an effective date; and declaring an emergency.

Referred to Committee on Education.

E2SSB 5763 by Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, Brandland, Thibaudeau, Carrell, Brown, Keiser, Fairley, McAuliffe, Rasmussen, Kline, Kohl-Welles and Franklin)

AN ACT Relating to the omnibus treatment of mental and substance abuse disorders act of 2005; amending RCW 71.05.020, 71.24.025, 10.77.010, 71.05.360, 71.05.215, 71.05.370, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660, 71.05.550, 2.28.170, 74.09.010, 71.05.157, 5.60.060, 18.83.110, 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding new sections to chapter 71.05 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new sections to chapter 2.28 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 74.09 RCW; adding a new section to chapter 71.24 RCW; adding a new section to chapter 72.09 RCW; adding new sections to chapter 71.02 RCW; adding a new section to chapter 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 82.14 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 71.05.370 and 71.05.035; repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250, 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155, 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and 71.05.670; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Health Care.

ESB 5962 by Senators Haugen, Schoesler, Rasmussen, Morton, Shin and Delvin

AN ACT Relating to customary agricultural practices; amending RCW 70.94.640; adding a new section to chapter 7.48 RCW; and adding a new section to chapter 64.06 RCW.

Referred to Committee on Economic Development, Agriculture & Trade.

ESSB 5983 by Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Pflug, Schmidt, Esser, Delvin and Benson)

AN ACT Relating to professional certification of teachers; amending RCW 28A.410.210, 28A.305.130, and 28A.410.090; and creating a new section.

Referred to Committee on Education.

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

The House advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1080, By Representatives McDonald, O'Brien and Morrell

Protecting dependent persons.

The bill was read the second time.

Representative O'Brien moved that Substitute House Bill No. 1080 be substituted for House Bill No. 1080 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1080 was read the second time.

With the consent of the House, amendment (062) was withdrawn.

Representative Darneille moved the adoption of amendment (109):

On page 2, line 29, after "paid" delete "or otherwise compensated" and insert ", given gifts, or made a beneficiary of any assets valued at $500 or more, for any reason,"

On page 2, line 30, after "estate" delete "in exchange for the assistance or services provided." and insert "; or (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate."

Representatives Darneille and McDonald spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives McDonald and O'Brien spoke in favor of passage of the bill.

MOTION

On motion of Representative Clements, Representative Curtis was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1080.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1080 and the bill passed the House

by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1080, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1236, By Representatives O'Brien, Morrell, Miloscia, Lovick, Darneille and Lantz

Changing duties for aiding injured persons.

The bill was read the second time.

Representative O'Brien moved that Substitute House Bill No. 1236 be substituted for House Bill No. 1236 and the substitute bill be placed on the second reading calendar. Representative O'Brien spoke in favor of the motion. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1236 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 O'Brien, Pearson and Miloscia spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1236.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1236 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1236, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1429, By Representatives Dickerson, Ericksen, Murray, Linville, B. Sullivan, Lovick, Talcott, Campbell, Chase, Nixon and Simpson

Authorizing personal rapid transit and magnetic levitation transit 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 Dickerson and Ericksen spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1429.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1429 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse,

Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

HOUSE BILL NO. 1429, having received the necessary constitutional majority, was declared passed.

HOUSE JOINT MEMORIAL NO. 4003, By Representatives Ericksen, Kessler, Haler, O'Brien, Talcott, Chase, Dickerson and B. Sullivan

Requesting Congress to consider Washington for magnetic levitation transportation funding.

The joint memorial was read the second time.

There being no objection, Substitute House Joint Memorial No. 4003 was substituted for House Joint Memorial No. 4003 and the substitute joint memorial was placed on the second reading calendar.

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4003 was read the second time.

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

Representatives Ericksen and Kessler spoke in favor of passage of the joint memorial.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Joint Memorial No. 4003.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Joint Memorial No. 4003 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4003, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

HOUSE BILL NO. 1065, By Representatives Hudgins, Ericksen, McCoy, Haigh, Miloscia, Simpson, Upthegrove, Kessler, Appleton, Williams, Curtis, Conway, Nixon, P. Sullivan, Kenney, Hinkle, Wallace, Jarrett, Dunn, Linville, Morris, Wood, Hunter, Sells, Clibborn, Morrell, Campbell, B. Sullivan and Chase; by request of Department of Veterans Affairs

Authorizing the armed forces license plate collection.

The bill was read the second time.

Representative Murray moved that Substitute House Bill No. 1065 be substituted for House Bill No. 1065 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1065 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 Hudgins and Woods spoke in favor of passage of the bill.

The Speaker stated the question before the House to be the final passage of Substitute House Bill No. 1065.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1065 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy,

McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Hankins - 1.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1065, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1074, By Representatives Dunshee, Jarrett, Chase and Schual-Berke; by request of Department of Community, Trade, and Economic Development

Increasing the administrative cap on the housing assistance program and the affordable housing program.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Housing was adopted. (For committee amendment, see Journal, 50th Day, February 28, 2005.)

With the consent of the House, amendments (217) and (193) were withdrawn.

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.

Representatives Dunshee, Holmquist, Miloscia, Jarrett and Dunshee (again) spoke in favor of passage of the bill.

Representative Dunn spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Engrossed House Bill No. 1074.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1074 and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Dunn and Dunshee - 2.

Excused: Representative Curtis - 1.

ENGROSSED HOUSE BILL NO. 1074, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2259, By Representatives Takko, Simpson, Schindler and Blake

Requiring a vote of the people in specified circumstances before a city may assume jurisdiction over a water-sewer district.

The bill was read the second time.

Representative McIntire moved that Second Substitute House Bill No. 2259 be substituted for House Bill No. 2259 and the second substitute bill be placed on the second reading calendar. The motion was adopted.

SECOND SUBSTITUTE HOUSE BILL NO. 2259 was read the second time.

Representative Schindler moved the adoption of amendment (183):

On page 3, at the beginning of line 3, insert "(1)"

On page 3, after line 15, insert the following:

"(2) A city or town that does not currently impose a utility tax shall not impose the tax under this section on a water-sewer district unless a majority of the voters in the city or town approve the tax at a primary or general election."

Representatives Schindler and Simpson spoke in favor of the adoption of the amendment.

Representative McIntire spoke against the adoption of the amendment.

The amendment 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.

Representatives Takko, Schindler and McIntire spoke in favor of passage of the bill.

The Speaker stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2259.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2259 and the bill passed the House by the following vote: Yeas - 92, Nays - 5, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pearson, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 92.

Voting nay: Representatives Clements, Cox, Dunn, Orcutt and Roach - 5.

Excused: Representative Curtis - 1.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2259, having received the necessary constitutional majority, was declared passed.

The Speaker called upon Representative Lovick to preside.

HOUSE BILL NO. 1029, By Representatives Simpson, Rodne, B. Sullivan and Anderson

Regulating ATVs.

The bill was read the second time.

Representative Murray moved that Substitute House Bill No. 1029 be substituted for House Bill No. 1029 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1029 was read the second time.

Representative Hinkle moved the adoption of amendment (307):

On page 5, line 29, strike "five" and insert "twenty-one"

On page 6, beginning on line 24, strike all of subsection (1)

Renumber the remaining subsections accordingly.

Representatives Hinkle and Simpson spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives Simpson, Rodne and Simpson (again) spoke in favor of passage of the bill.

Representatives Woods and Kristiansen spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1029.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1029 and the bill passed the House by the following vote: Yeas - 59, Nays - 38, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 59.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Holmquist, Kilmer, Kretz, Kristiansen, Lantz, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Roach, Schindler, Serben, Shabro, Skinner, Strow, Sump, Takko, Talcott, Tom, and Walsh - 38.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1029, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1116, By Representatives Wallace, Ericksen, Linville, Kristiansen, Grant, Serben, Walsh, Sells and Strow

Authorizing a "Ski & Ride Washington" license plate.

The bill was read the second time.

Representative Wallace moved that Substitute House Bill No. 1116 be substituted for House Bill No. 1116 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1116 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 Ericksen spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1116.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1116 and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Buck and Hankins - 2.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1116, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1359, By Representatives Darneille, Jarrett, Grant, Appleton, Kirby, Walsh, Kagi, Pettigrew, Lovick, Lantz, Campbell, Fromhold, Haigh, Priest, Kessler, Hinkle, Buck, Ormsby, Upthegrove, Dickerson, McIntire, Chase, McDermott and Holmquist

Revising the interest rate on legal financial obligations.

The bill was read the second time.

Representative Fromhold moved that Second Substitute House Bill No. 1359 be substituted for House Bill No. 1359 and the second substitute bill be placed on the second reading calendar. The motion was adopted.

SECOND SUBSTITUTE HOUSE BILL NO. 1359 was read the second time.

Representative Anderson moved the adoption of amendment (068):

On page 3, line 1, after "(3)" strike all material through "capacities," on line 3 and insert "Except as provided under subsections (1), (2), and (4) of this section, judgments ((~~founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities,~~))"

On page 3, strike all material after "year." on line 24 and insert "((~~Except as provided under subsections (1), (2), and (3) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. If any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.~~))"

POINT OF ORDER

Representative Hudgins requested a scope and object ruling on amendment (068) to Second Substitute House Bill No. 1359.

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): "Second Substitute House Bill No. 1359is entitled an act relating to "the interest rate on legal financial obligations." The bill modifies the interest rate for legal financial obligations imposed upon criminal offenders.

The amendment relates to the interest rate on civil judgments and is therefore outside the scope and object of the bill.

Representative Hudgins, your point of order is well taken."

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

Representative Darneille spoke in favor of passage of the bill.

Representatives Serben and Roach spoke against the passage of the bill.

There being no objection, House deferred action on SECOND SUBSTITUTE HOUSE BILL NO. 1359, and it held its place on third reading.

HOUSE BILL NO. 1806, By Representatives Kenney, Haigh, Kessler, Morrell, Dickerson, Williams, P. Sullivan, Ericks, Anderson, McDermott, Wood, Linville, Moeller and Hudgins; by request of Governor Gregoire

Encouraging the ethical transfer of technology for the economic benefit of the state.

The bill was read the second time.

Representative Haigh moved that Substitute House Bill No. 1806 be substituted for House Bill No. 1806 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1806 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 Kenney and Nixon spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1806.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1806 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1806, having received the necessary constitutional majority, was declared passed.

There being no objection, the House deferred action on HOUSE BILL NO. 1824, and the bill held its place on the second reading calendar.

HOUSE BILL NO. 1834, By Representatives McIntire, Anderson, Kessler, Conway, Fromhold, Clements, Kagi, Linville, Jarrett, Hunter, Tom, Hinkle, Upthegrove, Kilmer, Wood and Santos

Using performance measures for budgeting decisions.

The bill was read the second time.

Representative Sommers moved that Substitute House Bill No. 1834 be substituted for House Bill No. 1834 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1834 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 McIntire, Anderson, Miloscia and Anderson (again) spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1834.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1834 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle,

Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1834, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1848, By Representatives Springer, Tom, Lantz, Priest, Hunter, Jarrett, Clibborn, Serben, Fromhold, Rodne, Williams, Flannigan, Kessler, O'Brien and Simpson

Addressing construction defect disputes involving multiunit residential buildings.

The bill was read the second time.

Representative Springer moved the adoption of amendment (305):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** APPLICABILITY. (1) Sections 2 through 10 of this chapter apply to any multiunit residential building for which the permit for construction or rehabilitative construction of such building was issued on or after the effective date of this act.

(2) Sections 2 and 11 through 18 of this act apply to any action that alleges breach of an implied or express warranty under chapter 64.34 RCW or that seeks relief that could be awarded for such breach, regardless of the legal theory pled, except that sections 11 through 18 of this act shall not apply to:

(a) Actions filed or served prior to the effective date of this act;

(b) Actions for which a notice of claim was served pursuant to chapter 64.50 RCW prior to the effective date of this act;

(c) Actions asserting any claim regarding a building that is not a multiunit residential building;

(d) Actions asserting any claim regarding a multiunit residential building that was permitted on or after the effective date of this act unless the letter required by section 7 of this act has been submitted to the appropriate building department or the requirements of section 10 of this act have been satisfied.

(3) Other than the requirements imposed by sections 2 through 10 of this act, nothing in this chapter amends or modifies the provisions of RCW 64.34.050.

NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling units" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer which prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection.

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant.

(b) If the developer submits to the appropriate building department when applying for the building permit described in section 3 of this act a statement that the developer elects to treat the improvement for which a permit is sought as a multiunit residential building for all purposes under this chapter, then "multiunit

residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A condominium that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Qualified building inspector" means a person satisfying the requirements of section 5 of this act.

(8) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(9) "Sale prohibition covenant" means a covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in section 10 of this act, and the developer has submitted to the appropriate building department a certified copy of the recorded covenant; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of sections 2 through 10 of this act. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).
>
> This covenant terminates on the earlier of either: (a) Compliance with the requirements of section 10 of this act, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.
>
> All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(10) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page and every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

NEW SECTION. **Sec. 3.** DESIGN DOCUMENTS. (1) Any person applying for a building permit for construction or rehabilitative construction of the building enclosure of a multiunit residential building shall submit building enclosure design documents to the appropriate building department prior to the start of construction or rehabilitative construction. If construction work on a building enclosure is not rehabilitative construction because the cost thereof is not more than five percent of the assessed value of the building, then the person applying for a building permit shall submit to the building department a letter so certifying. Any changes to the building enclosure design documents that alter the manner in which the building or its components is waterproofed, weatherproofed, and otherwise protected from water or moisture intrusion shall be stamped by the architect or engineer and shall be provided to the building department and to the person conducting the course of construction inspection in a timely manner to permit such person to inspect for compliance therewith, and may be provided through individual updates, cumulative updates, or as-built updates.

(2) The building department shall not issue a building permit for construction of the building enclosure of a multiunit residential building or for rehabilitative construction unless the building enclosure design documents contain a stamped statement by the person stamping the building enclosure design documents in substantially the following form: "The undersigned has provided building enclosure documents that in my professional judgment are appropriate to satisfy the requirements of sections 1 through 10 of this act."

(3) The building department is not charged with determining whether the building enclosure design documents are adequate or appropriate to satisfy the requirements of sections 1 through 10 of this act. Nothing in sections 1 through 10 of this act requires a building department to review, approve, or disapprove enclosure design documents.

NEW SECTION. **Sec. 4.** INSPECTIONS. All multiunit residential buildings shall have the building enclosure inspected by a qualified inspector during the course of initial construction and during all rehabilitative construction.

NEW SECTION. **Sec. 5.** INSPECTORS--QUALIFICATIONS--INDEPENDENCE. (1) A qualified building enclosure inspector:

(a) Must be either: (i) A licensed architect or engineer with verifiable training and experience in building enclosure design and construction; or (ii) any person with substantial and verifiable training and experience in building enclosure design and construction;

(b) Shall be free from improper interference or influence relating to the inspections; and

(c) May not be an employee, officer, or director of, nor have any pecuniary interest in, the declarant, developer, association, or any party providing services or materials for the project, or any of their respective affiliates, except that the qualified inspector may be the architect or engineer who approved the building enclosure design documents or the architect or engineer of record. The qualified inspector may, but is not required to, assist with the preparation of such design documents.

(2) Nothing in this section alters requirements for licensure of any architect, engineer, or other professional, or alters the jurisdiction, authority, or scope of practice of architects, engineers, other professionals, or general contractors.

NEW SECTION. **Sec. 6.** SCOPE OF INSPECTION. (1) Any inspection required by this chapter shall include, at a minimum, the following:

(a) Water penetration resistance testing of a representative sample of windows and window installations. Such tests shall be conducted according to industry standards. Where appropriate, tests shall be conducted with an induced air pressure difference across the window and window installation. Additional testing is not required if the same assembly has previously been tested in situ within the previous two years in the project under construction by the builder,

by another member of the construction team such as an architect or engineer, or by an independent testing laboratory; and

(b) An independent periodic review of the building enclosure during the course of construction or rehabilitative construction to ascertain whether the multiunit residential building has been constructed, or the rehabilitative construction has been performed, in substantial compliance with the building enclosure design documents.

(2) Subsection (1)(a) of this section shall not apply to rehabilitative construction if the windows and adjacent cladding are not altered in the rehabilitative construction.

(3) "Project" means one or more parcels of land in a single ownership, which are under development pursuant to a single land use approval or building permit, where window installation is performed by the owner with its own forces, or by the same general contractor, or, if the owner is contracting directly with trade contractors, is performed by the same trade contractor.

NEW SECTION. **Sec. 7.** CERTIFICATION--CERTIFICATE OF OCCUPANCY. Upon completion of an inspection required by this chapter, the qualified inspector shall prepare and submit to the appropriate building department a signed letter certifying that the building enclosure has been inspected during the course of construction or rehabilitative construction and that it has been constructed or reconstructed in substantial compliance with the building enclosure design documents, as updated pursuant to section 3 of this act. The building department shall not issue a final certificate of occupancy or other equivalent final acceptance until the letter required by this section has been submitted. The building department is not charged with and has no responsibility for determining whether the building enclosure inspection is adequate or appropriate to satisfy the requirements of this chapter.

NEW SECTION. **Sec. 8.** INSPECTOR, ARCHITECT, AND ENGINEER LIABILITY. (1) Nothing in this act is intended to, or does:

(a) Create a private right of action against any inspector, architect, or engineer based upon compliance or noncompliance with its provisions; or

(b) Create any independent basis for liability against an inspector, architect, or engineer.

(2) The qualified inspector, architect, or engineer and the developer that retained the inspector, architect, or engineer may contractually agree to the amount of their liability to the developer.

NEW SECTION. **Sec. 9.** NO EVIDENTIARY PRESUMPTION--ADMISSIBILITY. A qualified inspector's report or testimony regarding an inspection conducted pursuant to this chapter is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this chapter restricts the admissibility of such a report or testimony, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

NEW SECTION. **Sec. 10.** NO SALE OF CONDOMINIUM UNIT ABSENT COMPLIANCE. (1) Except for sales or other dispositions listed in RCW 64.34.400(2), no declarant may convey a condominium unit that may be occupied for residential use in a multiunit residential building without first complying with the requirements of sections 1 through 10 of this act unless:

(a) With respect to original building construction, the stamped documents required by section 3 of this act and the letter required by section 7 of this act have been submitted to the appropriate building department; provided this subsection (1)(a) does not apply to conversion condominiums; or

(b) The building enclosure of the building in which such unit is included is inspected by a qualified building enclosure inspector, and:

(i) The inspection includes such intrusive or other testing, such as the removal of siding or other building enclosure materials, that the inspector believes, in his or her professional judgment, is necessary to ascertain the manner in which the building enclosure was constructed;

(ii) The inspection evaluates, to the extent reasonably ascertainable and in the professional judgment of the inspector, the present condition of the building enclosure including whether such condition has adversely affected or will adversely affect the performance of the building enclosure to waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion. "Adversely affect" has the same meaning as provided in RCW 64.34.445(7);

(iii) The inspection report includes recommendations for repairs to the building envelope that, in the professional judgment of the qualified building inspector, are necessary to: (A) Repair a design or construction defect in the building envelope that results in the failure of the building envelope to perform its intended function and allows unintended water penetration not caused by flooding; and (B) repair damage caused by such a defect that has an adverse effect as provided in RCW 64.34.445(7);

(iv) With respect to a building that would be a multiunit residential building but for the recording of a sale prohibition covenant and unless more than five years have elapsed since the date such covenant was recorded, all repairs to the building enclosure recommended pursuant to (b)(iii) of this subsection have been made; and

(v) The declarant provides as part of the public offering statement, consistent with RCW 64.34.410 (1)(nn) and (2), an inspection and repair report signed by the qualified building enclosure inspector that identifies:

(A) The extent of the inspection performed pursuant to this section;

(B) The information obtained as a result of that inspection; and

(C) The manner in which any repairs required by this section were performed, the scope of those repairs, and the names of the persons performing those repairs.

(2) Failure to deliver the inspection and repair report in violation of this section constitutes a failure to deliver a public offering statement for purposes of chapter 64.34 RCW.

NEW SECTION. **Sec. 11.** ARBITRATION--ELECTION--NUMBER OF ARBITRATORS--QUALIFICATIONS--TRIAL DE NOVO. (1) If the declarant, an association, or a unit owner demands an arbitration by filing such demand with the court not less than thirty and not more than ninety days after filing or service of the complaint, whichever is later, the parties shall participate in a private arbitration hearing. The declarant, the association, and the unit owner do not have the right to compel arbitration without giving timely notice in compliance with this subsection. Unless otherwise agreed by the parties, the arbitration hearing shall commence no more than fourteen months from the later of the filing or service of the complaint.

(2) Unless otherwise agreed by the parties, claims that in aggregate are for less than one million dollars shall be heard by a single arbitrator and all other claims shall be heard by three

arbitrators. As used in this chapter, arbitrator also means arbitrators where applicable.

(3) Unless otherwise agreed by the parties, the court shall appoint the arbitrator, who shall be a current or former attorney with experience as an attorney, judge, arbitrator, or mediator in construction defect disputes involving the application of Washington law.

(4) Upon conclusion of the arbitration hearing, the arbitrator shall file the decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after the filing of the decision and award, any aggrieved party may file with the clerk a written notice of appeal and demand for a trial de novo in the superior court on all claims between the appealing party and an adverse party. As used in this section, "adverse party" means the party who either directly asserted or defended claims against the appealing party. The demand shall identify the adverse party or parties and all claims between those parties shall be included in the trial de novo. The right to a trial de novo includes the right to a jury, if demanded. The court shall give priority to the trial date for the trial de novo.

(5) If the judgment for damages, not including awards of fees and costs, in the trial de novo is not more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, the appealing party shall pay the nonappealing adverse party's costs and fees incurred after the filing of the appeal, including reasonable attorneys' fees so incurred.

(6) If the judgment for damages, not including awards of fees and costs, in the trial de novo is more favorable to the appealing party than the damages awarded by the arbitrator, not including awards of fees and costs, then the court may award costs and fees, including reasonable attorneys' fees, incurred after the filing of the request for trial de novo in accordance with applicable law; provided if such a judgment is not more favorable to the appealing party than the most recent offer of judgment, if any, made pursuant to section 17 of this act, the court shall not make an award of fees and costs to the appealing party.

(7) If a party is entitled to an award with respect to the same fees and costs pursuant to this section and section 17 of this act, then the party shall only receive an award of fees and costs as provided in and limited by section 17 of this act. Any award of fees and costs pursuant to subsections (5) or (6) of this section is subject to review in the event of any appeal thereof otherwise permitted by applicable law or court rule.

NEW SECTION. **Sec. 12.** CASE SCHEDULE PLAN. (1) Not less than sixty days after the later of filing or service of the complaint, the parties shall confer to create a proposed case schedule plan for submission to the court that includes the following deadlines:

(a) Selection of a mediator;

(b) Commencement of the mandatory mediation and submission of mediation materials required by this chapter;

(c) Selection of the arbitrator by the parties, where applicable;

(d) Joinder of additional parties in the action;

(e) Completion of each party's investigation;

(f) Disclosure of each party's proposed repair plan;

(g) Disclosure of each party's estimated costs of repair;

(h) Meeting of parties and experts to confer in accordance with section 13 of this act; and

(i) Disclosure of each party's settlement demand or response.

(2) If the parties agree upon a proposed case schedule plan, they shall move the court for the entry of the proposed case schedule plan. If the parties cannot agree, either party may move the court for entry of a case schedule plan that includes the above deadlines.

NEW SECTION. **Sec. 13.** MANDATORY MEDIATION. (1) The parties to an action subject to this act shall engage in mediation. Unless the parties agree otherwise, the mediation required by this section shall commence within seven months of the later of the filing or service of the complaint. If the parties cannot agree upon a mediator, the court shall appoint a mediator.

(2) Prior to the mediation required by this section, the parties and their experts shall meet and confer in good faith to attempt to resolve or narrow the scope of the disputed issues, including issues related to the parties' repair plans.

(3) Prior to the mandatory mediation, the parties or their attorneys shall file and serve a declaration that:

(a) A decision maker with authority to settle will be available for the duration of the mandatory mediation; and

(b) The decision maker has been provided with and has reviewed the mediation materials provided by the party to which the decision maker is affiliated as well as the materials submitted by the opposing parties.

(4) Completion of the mediation required by this section occurs upon written notice of termination by any party. The provisions of section 17 of this act shall not apply to any later mediation conducted following such notice.

NEW SECTION. **Sec. 14.** NEUTRAL EXPERT. (1) If, after meeting and conferring as required by section 13(2) of this act, disputed issues remain, a party may file a motion with the court, or arbitrator if an arbitrator has been appointed, requesting the appointment of a neutral expert to address any or all of the disputed issues. Unless otherwise agreed to by the parties or upon a showing of exceptional circumstances, including a material adverse change in a party's litigation risks due to a change in allegations, claims, or defenses by an adverse party following the appointment of the neutral expert, any such motion shall be filed no later than sixty days after the first day of the meeting required by section 13(2) of this act. Upon such a request, the court or arbitrator shall decide whether or not to appoint a neutral expert or experts. A party may only request more than one neutral expert if the particular expertise of the additional neutral expert or experts is necessary to address disputed issues.

(2) The neutral expert shall be a licensed architect or engineer, or any other person, with substantial experience relevant to the issue or issues in dispute. The neutral expert shall not have been employed as an expert by a party to the present action within three years before the commencement of the present action, unless the parties agree otherwise.

(3) All parties shall be given an opportunity to recommend neutral experts to the court or arbitrator and shall have input regarding the appointment of a neutral expert.

(4) Unless the parties agree otherwise on the following matters, the court, or arbitrator if then appointed, shall determine:

(a) Who shall serve as the neutral expert;

(b) Subject to the requirements of this section, the scope of the neutral expert's duties;

(c) The number and timing of inspections of the property;

(d) Coordination of inspection activities with the parties' experts;

(e) The neutral expert's access to the work product of the parties' experts;

(f) The product to be prepared by the neutral expert;

(g) Whether the neutral expert may participate personally in the mediation required by section 13 of this act; and

(h) Other matters relevant to the neutral expert's assignment.

(5) Unless the parties agree otherwise, the neutral expert shall not make findings or render opinions regarding the amount of damages to be awarded, or the cost of repairs, or absent exceptional circumstances any matters that are not in dispute as determined in the meeting described in section 13(2) of this act or otherwise.

(6) A party may, by motion to the court, or to the arbitrator if then appointed, object to the individual appointed to serve as the neutral expert and to determinations regarding the neutral expert's assignment.

(7) The neutral expert shall have no liability to the parties for the performance of his or her duties as the neutral expert.

(8) Except as otherwise agreed by the parties, the parties have a right to review and comment on the neutral expert's report before it is made final.

(9) A neutral expert's report or testimony is not entitled to any evidentiary presumption in any arbitration or court proceeding. Nothing in this act restricts the admissibility of such a report or testimony, provided it is within the scope of the neutral expert's assigned duties, and questions of the admissibility of such a report or testimony shall be determined under the rules of evidence.

(10) The court, or arbitrator if then appointed, shall determine the significance of the neutral expert's report and testimony with respect to parties joined after the neutral expert's appointment and shall determine whether additional neutral experts should be appointed or other measures should be taken to protect such joined parties from undue prejudice.

NEW SECTION. **Sec. 15.** PAYMENT OF ARBITRATORS, MEDIATORS, AND NEUTRAL EXPERTS. (1) Where the building permit that authorized commencement of construction of a building was issued on or after the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration shall advance the fees of any arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act shall advance any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Ultimate liability for any fees or costs advanced pursuant to this subsection (1) is subject to the fee- and cost-shifting provisions of section 17 of this act.

(2) Where the building permit that authorized commencement of construction of a building was issued before the effective date of this act:

(a)(i) If the action is referred to arbitration under section 11 of this act, the party who demands arbitration is liable for and shall pay the fees of any appointed arbitrator and any mediator appointed under section 13 of this act; and

(ii) A party who requests the appointment of a neutral expert pursuant to section 14 of this act is liable for and shall pay any appointed neutral expert's fees incurred up to the issuance of a final report.

(b) If the action has not been referred to arbitration, the court shall determine liability for the fees of any mediator appointed under section 13 of this act, unless the parties agree otherwise.

(c) Fees and costs paid under this subsection (2) are not subject to the fee- and cost-shifting provisions of section 17 of this act.

NEW SECTION. **Sec. 16.** SUBCONTRACTORS. Upon the demand of a party to an arbitration demanded under section 11 of this act, any subcontractor or supplier against whom such party has a legal claim and whose work or performance on the building in question becomes an issue in the arbitration may be joined in and become a party to the arbitration. However, joinder of such parties shall not be allowed if such joinder would require the arbitration hearing date to be continued beyond the date established pursuant to section 11 of this act, unless the existing parties to the arbitration agree otherwise. Nothing in sections 2 through 10 of this act shall be construed to release, modify, or otherwise alleviate the liabilities or responsibilities that any party may have towards any other party, contractor, or subcontractor.

NEW SECTION. **Sec. 17.** OFFERS OF JUDGMENT--COSTS AND FEES. (1) For purposes of this section, "unit owner" means a unit owner who is a party to the litigation, and does not include any unit owners whose involvement with the litigation stems solely from their membership in the association. If the association is a party to the litigation, then for purposes of this section, as between the association and the unit owner or unit owners, the association shall have sole responsibility for decisions and actions with respect to making and accepting all offers of judgment and determining the adequacy of a declarant's offer of judgment with respect to common elements and such decisions made and actions taken by the association shall be binding on the association and unit owners.

(2) On or before the sixtieth day following completion of the mediation pursuant to section 13(4) of this act, the declarant or association, or a unit owner may serve on an adverse party an offer to allow judgment to be entered. The offer of judgment shall specify the amount of damages, not including costs or fees, that the declarant, association, or unit owner is offering to pay or receive. A declarant's offer shall also include its commitment to pay costs and fees that may be awarded as provided in this section. The declarant, association, and unit owner may make more than one offer of judgment so long as each offer is timely made. Each subsequent offer supersedes and replaces the previous offer. Any offer not accepted within twenty-one days of the service of that offer is deemed rejected and withdrawn and evidence thereof is not admissible and may not be provided to the court or arbitrator except in a proceeding to determine costs and fees or as part of the motion identified in subsection (3) of this section.

(3) A declarant's offer must include a demonstration of ability to pay damages, costs, and fees, including reasonable attorneys' fees, within thirty days of acceptance of the offer of judgment. The demonstration of ability to pay shall include a sworn statement signed by the declarant, the attorney representing the declarant, and, if any insurance proceeds will be used to fund any portion of the offer, an authorized representative of the insurance company. If the association or unit owner disputes the adequacy of the declarant's demonstration of ability to pay, the association or unit owner may file a motion with the court requesting a ruling on the adequacy of the declarant's demonstration of ability to pay. Upon filing of such motion, the deadline for a response to the offer shall be tolled from the date the motion is filed until the court has ruled.

(4) An association or unit owner that accepts the declarant's offer of judgment shall be deemed the prevailing party and, in addition to recovery of the amount of the offer, shall be entitled to a costs and fees award, including reasonable attorneys' fees, in an

amount to be determined by the court in accordance with applicable law.

(5) If the amount of the final nonappealable or nonappealed judgment, exclusive of costs or fees, is not more favorable to the offeree than the offer of judgment, then the offeror is deemed the prevailing party for purposes of this section only and is entitled to an award of costs and fees, including reasonable attorneys' fees, incurred after the date the last offer of judgment was rejected and through the date of entry of a final nonappealable or nonappealed judgment, in an amount to be determined by the court in accordance with applicable law. The nonprevailing party shall not be entitled to receive any award of costs and fees.

(6) If the final nonappealable or nonappealed judgment on damages, not including costs or fees, is more favorable to the offeree than the last offer of judgment, then the court shall determine which party is the prevailing party and shall determine the amount of the costs and fees award, including reasonable attorneys' fees, in accordance with applicable law.

(7) Notwithstanding any other provision in this section, with respect to claims brought by an association or unit holder, the liability for declarant's costs and fees, including reasonable attorneys' fees, shall:

(a) With respect to claims brought by an association, not exceed five percent of the assessed value of the condominium as a whole, which is determined by the aggregate tax-assessed value of all units at the time of the award; and

(b) With respect to claims brought by a unit owner, not exceed five percent of the assessed value of the unit at the time of the award.

Sec. 18. RCW 64.34.415 and 1992 c 220 s 22 are each amended to read as follows:

(1) The public offering statement of a conversion condominium shall contain, in addition to the information required by RCW 64.34.410:

(a) Either a copy of a report prepared by an independent, licensed architect or engineer, or a statement by the declarant based on such report, which report or statement describes, to the extent reasonably ascertainable, the present condition of the building enclosure and of all structural components and mechanical and electrical installations material to the use and enjoyment of the condominium except that the portion of the report pertaining to the building enclosure may be prepared by a qualified building inspector who satisfies the requirements of section 5 of this act;

(b) A statement by the declarant of the expected useful life of each item reported on in (a) of this subsection or a statement that no representations are made in that regard; and

(c) A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations. Unless the purchaser waives in writing the curing of specific violations, the extent to which the declarant will cure such violations prior to the closing of the sale of a unit in the condominium shall be included.

(2) With respect to a conversion condominium to which section 10 of this act applies, the declarant shall perform building enclosure repairs if required to do so by section 10(1)(b)(iv) of this act.

(3) This section applies only to condominiums containing units that may be occupied for residential use.

Sec. 19. RCW 64.34.410 and 2004 c 201 s 11 are each amended to read as follows:

(1) A public offering statement shall contain the following information:

(a) The name and address of the condominium;

(b) The name and address of the declarant;

(c) The name and address of the management company, if any;

(d) The relationship of the management company to the declarant, if any;

(e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;

(f) The nature of the interest being offered for sale;

(g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;

(h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;

(i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;

(j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;

(k) A list of the limited common elements assigned to the units being offered for sale;

(l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;

(m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;

(n) The status of construction of the units and common elements, including estimated dates of completion if not completed;

(o) The estimated current common expense liability for the units being offered;

(p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;

(q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;

(r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;

(s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;

(t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;

(u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;

(v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;

(w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;

(x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);

(y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;

(z) A brief description of any construction warranties to be provided to the purchaser;

(aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

(bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

(cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;

(dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

(ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

(ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

(gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

(hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

(ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;

(jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant;

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995;

(ll) A notice that is substantially in the form required by RCW 64.50.050; ((~~and~~))

(mm) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and

(nn) A statement that the building enclosure has been designed and inspected as required by sections 2 through 10 of this act, and, if required, repaired in accordance with the requirements of section 10 of this act.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, ((~~and~~)) the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more, and the inspection and repair report or reports prepared in accordance with the requirements of section 10 of this act.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

Sec. 20. RCW 64.34.100 and 2004 c 201 s 2 are each amended to read as follows:

(1) The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(2) Except as otherwise provided in sections 11 through 17 of this act or chapter 64.35 RCW, any right or obligation declared by this chapter is enforceable by judicial proceeding. The arbitration proceedings provided for in sections 11 through 17 of this act shall be considered judicial proceedings for the purposes of this chapter.

NEW SECTION. **Sec. 21.** A new section is added to Article 1 of chapter 64.34 RCW to read as follows:

Chapter 64.-- RCW (sections 1 through 17 of this act) includes requirements for the inspection of the building envelopes of multiunit residential buildings and for the resolution of disputes regarding defects therein.

NEW SECTION. **Sec. 22.** CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 23.** Sections 1 through 17 of this act constitute a new chapter in Title 64 RCW.

NEW SECTION. **Sec. 24.** EFFECTIVE DATE. This act takes effect August 1, 2005."

Correct the title.

Representatives Springer and Tom spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives Springer and Tom spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1848.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1848 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

ENGROSSED HOUSE BILL NO. 1848, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2033, By Representatives McIntire, Orcutt, Conway, Hunter, Chase and Santos

Modifying municipal business and occupation taxation.

The bill was read the second time.

Representative McIntire moved that Substitute House Bill No. 2033 be substituted for House Bill No. 2033 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 2033 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 McIntire and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2033.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2033 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 2033, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1068, By Representatives Quall, McDermott and Haigh; by request of Governor Locke and Superintendent of Public Instruction

Eliminating mandatory norm-referenced student assessments.

The bill was read the second time.

Representative Quall moved the adoption of amendment (200):

On page 1, after line 13, insert the following new section:

"NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) The legislature finds that the mandatory norm-referenced student assessments eliminated under this legislation provide information that teachers and parents use to improve student learning. The legislature intends to permit school districts to offer norm-

referenced assessments at the districts' own expense and make diagnostic tools available that provide information that is at least as valuable as the information eliminated under this act.

(2) School districts may, at their own expense, administer norm-referenced assessments to students.

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

(4) By September 1, 2006, subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall make available to school districts diagnostic assessments that help improve student learning. To the greatest extent possible, the assessments shall be:

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

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

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

(d) Capable of measuring individual student growth over time; and

(e) Cost-effective."

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

Representative Anderson moved the adoption of amendment (302) to amendment (200):

On page 1 of the amendment, beginning on line 19, after "2006," strike "subject to the availability of amounts appropriated for this specific purpose,"

Representatives Anderson and Talcott spoke in favor of the adoption of the amendment to.

Representative Quall spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 42 - YEAS; 55 -NAYS.

The amendment to the amendment was not adopted.

Representatives Quall and Talcott spoke in favor of the adoption of the amendment (200).

The amendment was adopted.

Representative Cox moved the adoption of amendment (299):

Beginning on page 1, line 14, strike all of section 2 and insert the following:

"**Sec. 2.** RCW 28A.230.190 and 1999 c 373 s 201 are each amended to read as follows:

(1) School districts shall assess students for second grade reading accuracy and fluency skills starting in the 1998-99 school year as provided in RCW 28A.300.320.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a norm-referenced standardized achievement test ((~~to~~)) that, at the option of school districts, may be given annually to all pupils in grade three at state expense. The test shall assess students' basic skills in reading and mathematics. Results of such tests and relevant student, school, and district characteristics shall be compiled annually by the superintendent of public instruction, who shall make those results available annually to the public, to the legislature, to all local school districts, and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels of their children as compared with the other students within the district, the state, and the nation.

Sec. 3. RCW 28A.230.193 and 1999 c 373 s 301 are each amended to read as follows:

The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a norm-referenced standardized achievement test ((~~to~~)) that, at the option of school districts, may be given annually to all pupils in grade six at state expense. The test shall assess students' basic skills in reading/language arts and mathematics. Results of such tests and relevant student, school, and district characteristics shall be compiled by the superintendent of public instruction, who shall make those results available annually to the public, to the legislature, to all local school districts, and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels of their children as compared with the other students within the district, the state, and the nation.

Sec. 4. RCW 28A.230.230 and 1999 c 373 s 401 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, an annual norm-referenced standardized achievement assessment ((~~of all~~)) that, at the option of school districts, may be given to students in the ninth grade at state expense. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school courses for students and to provide information about students' current academic proficiencies both in the basic skills of reading/language arts and mathematics, and in the reasoning and thinking skills essential for successful entry into those courses required for high school graduation. The assessment shall also include the collection of information about students' interests and plans for high school and beyond and shall include the collection of other related student and school information. The superintendent of public instruction shall make the results of the assessment and relevant student, school, and district characteristics available annually to the public, to the legislature, and to all school districts, which shall in turn make them available to students, parents, and teachers in a timely fashion.

(2) Upon request, the superintendent of public instruction shall make available to requesting school districts the inventory used to collect information about students' interests and plans for high school and beyond for use by students in the eighth grade. To the extent funds are appropriated, the superintendent shall provide the inventory, tabulation services, and reporting at no cost or at reduced cost to school districts."

Correct the title.

Representatives Cox, Talcott, Tom and Clements spoke in favor of the adoption of the amendment.

Representative Quall spoke against the adoption of the amendment.

The amendment was not 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.

Representatives Quall, Talcott and Shabro spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1068.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1068 and the bill passed the House by the following vote: Yeas - 78, Nays - 19, Absent - 0, Excused - 1.

Voting yea: Representatives Alexander, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Chase, Clibborn, Cody, Condotta, Conway, Cox, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pearson, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 78.

Voting nay: Representatives Ahern, Anderson, Campbell, Chandler, Clements, Crouse, Dunn, Ericksen, Hinkle, Holmquist, Kretz, McCune, Newhouse, Orcutt, Roach, Rodne, Schindler, Serben and Sump - 19.

Excused: Representative Curtis - 1.

ENGROSSED HOUSE BILL NO. 1068, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2056, By Representatives Conway and Wood

Regulating recreational vehicle shows.

The bill was read the second time.

Representative Fromhold moved that Substitute House Bill No. 2056 be substituted for House Bill No. 2056 and the substitute bill be placed on the second reading calendar. Representative Fromhold spoke in favor of the motion. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 2056 was read the second time.

With the consent of the House, amendment (233) was withdrawn.

Representative Wood moved the adoption of amendment (265):

On page 4, at the beginning of line 33 strike "((~~six~~)) two" and insert "six"

On page 4, line 34, strike "((~~licensee~~)) dealer" and insert "licensee"

On page 5, beginning on line 34, strike all of subsection (b) and insert the following:
"(b) The department may issue a temporary subagency license if the location of the show is within fifty miles of the recreational vehicle dealer's established place of business or permanent location. The department may issue a temporary subagency license for a show outside fifty miles of the recreational vehicle dealer's established place of business or permanent location only if the product represented is new and is within the factory designated sales territory for each brand of new recreational vehicles to be offered for sale, and only those specific brands of new recreational vehicles may be offered for sale under the terms of the temporary subagency license."

On page 6, line 25, after "than" strike "four" and insert "six"

Representatives Wood and Condotta spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives Conway and Condotta spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2056.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2056 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0,

Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative DeBolt - 1.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2056, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1918, By Representatives Conway, Wood and Chase

Implementing a recommendation of the joint legislative audit and review committee with regard to industrial insurance.

The bill was read the second time.

Representative Conway moved that Substitute House Bill No. 1918 be substituted for House Bill No. 1918 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1918 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 Conway and Condotta spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1918.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1918 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1918, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2212, By Representatives Hunter, Cox, Haigh, Talcott and Lantz

Relating to educator certification.

The bill was read the second time.

Representative Fromhold moved that Second Substitute House Bill No. 2212 be substituted for House Bill No. 2212 and the second substitute bill be placed on the second reading calendar. The motion was adopted.

SECOND SUBSTITUTE HOUSE BILL NO. 2212 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 Hunter and Cox spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2212.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2212 and the bill passed the House by the following vote: Yeas - 94, Nays - 3, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell,

Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representatives Clements, Dunn and Skinner - 3.

Excused: Representative Curtis - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2212, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1458, By Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott

Concerning the management of on-site sewage systems in marine areas.

The bill was read the second time.

Representative Fromhold moved that Second Substitute House Bill No. 1458 be substituted for House Bill No. 1458 and the second substitute bill be placed on the second reading calendar. The motion was adopted.

SECOND SUBSTITUTE HOUSE BILL NO. 1458 was read the second time.

Representative Hunt moved the adoption of amendment (197):

Strike everything after the enacting clause and insert the following:

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

(1) Hood Canal and other marine waters in Puget Sound are at risk of severe loss of marine life from low-dissolved oxygen, and that in addition to such natural factors as poor overall water circulation and stratification of water that discourages mixing of surface-to-deeper waters, the increased input of human-influenced nutrients, especially nitrogen, are a significant factor in this low-oxygen condition in some of Puget Sound's waters;

(2) A significant portion of the state's residents live in homes served by on-site sewage disposal systems, and that many new residences will be served by these systems;

(3) Properly functioning on-site sewage disposal systems largely provide for the protection of water quality and improperly functioning on-site sewage disposal systems in marine recovery areas may contaminate surface water, resulting in significant public health and environmental problems;

(4) Local programs designed to identify and correct failing on-site sewage disposal systems have proven effective in reducing and eliminating public health and environmental hazards, improving water quality, and reopening previously closed shellfish areas; and

(5) State water quality monitoring data and analysis can provide a means to focus these enhanced local programs on the specific geographic areas that are sources of pollutants that are degrading Puget Sound waters.

Therefore, it is the purpose of this chapter to authorize enhanced local programs in marine recovery areas to inventory existing on-site sewage disposal systems, to identify the location of all on-site sewage disposal systems near marine recovery areas, to require inspection of on-site sewage disposal systems and repairs to those systems that are failing, to develop data bases capable of sharing information regarding on-site sewage disposal systems, and to monitor the progress of implementing these programs to ensure that they are working to protect public health and the quality of Puget Sound waters.

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

(1) "Board" means the state board of health.

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

(3) "Failure" means a condition of an on-site sewage disposal system or component that threatens the public health or environment by inadequately treating sewage or that results in creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

(a) Sewage on the surface of the ground;

(b) Sewage backing up into a structure;

(c) Sewage leaking from a sewage tank or collection system;

(d) Cesspools or seepage pits;

(e) Inadequately treated effluent contaminating ground water or surface water; or

(f) Noncompliance with a requirement stipulated on a permit issued by the department or local health department.

(4) "Implementation plan" means the on-site sewage disposal system implementation plan of a local health jurisdiction required under section 4 of this act.

(5) "Local health officer" or "local health jurisdiction" means the local health officers and local health jurisdictions in counties bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

(6) "Marine recovery area" means an area of definite boundaries where the local health officer, or the department in consultation with the health officer, determines additional requirements for on-site sewage disposal systems may be necessary to reduce potential failures or minimize negative impacts of on-site sewage disposal systems on public health or the environment.

(7) "On-site sewage disposal system" means any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on nearby property under the control of the user where the system is not connected to a public sewer system. For purposes of this chapter, an on-site sewage disposal system does not include indoor plumbing and associated fixtures and does not include any system regulated by a water quality discharge permit issued under chapter 90.48 RCW.

(8) "Unknown system" means an on-site sewage disposal system

that was installed without the knowledge or approval of the local health jurisdiction, including those that were installed before the approval was required.

NEW SECTION. **Sec. 3.** (1) By July 1, 2006, the local health officer, or the department in consultation with the local health officer, shall propose a marine recovery area for those land areas where on-site sewage disposal systems are a significant factor contributing to public health and environmental concerns, and where associated with:

(a) Shellfish growing areas that have been downgraded by the department under chapter 69.30 RCW; or

(b) Marine waters that are listed by the department of ecology under Section 303(d) of the federal clean water act (33 U.S.C. Sec. 1251 et seq.) for low-dissolved oxygen, nitrogen, or fecal coliform.

(2) In determining the boundaries for the marine recovery area, the local health officer shall assess and include those land areas where on-site sewage disposal systems may result in an impact to the water quality in the marine recovery area.

(3) After July 1, 2006, the local health officer may designate additional areas where new information indicates additional land areas meet the criteria of this section. Where the department recommends the designation of an area or the expansion of a designated area, the local health officer shall notify the department of its decision concerning the recommendation within ninety days of receipt of the recommendation.

NEW SECTION. **Sec. 4.** (1) By July 1, 2007, and thereafter, the local health officers of health jurisdictions in the twelve counties bordering Puget Sound where a marine recovery area has been proposed by the local health officer or the department under section 3 of this act shall each develop and approve an on-site sewage disposal system program implementation plan that includes the designation of marine recovery areas that will guide the local health jurisdiction in the development and management of all on-site sewage disposal systems within the marine recovery areas within its jurisdiction. The department may grant an extension of twelve months where the local health jurisdiction has demonstrated substantial progress toward completion of the plan.

(2) The on-site sewage disposal system program implementation plan for the marine recovery area must include how the local health jurisdiction will:

(a) By July 1, 2010, find failing systems and ensure system owners make necessary repairs;

(b) By July 1, 2010, find unknown systems and ensure they are inspected and ensure they are functioning properly, or repairs are made as necessary;

(c) Identify the additional requirements for operation, maintenance, and monitoring that are commensurate with the risks posed by on-site sewage disposal systems in the marine recovery area;

(d) Facilitate education of owners of on-site sewage disposal systems regarding requirements for owners;

(e) Provide operation and maintenance information for owners of all system types in use within the marine recovery area;

(f) Ensure owners of on-site sewage disposal systems complete operation and maintenance inspections as required by rules adopted by the board;

(g) Maintain all records as required by rules adopted by the board including inspections and repairs;

(h) Enforce applicable on-site sewage disposal system permit requirements; and

(i) If necessary, recommend alternatives to conventional on-site sewage disposal systems such as extending sewer services, developing community sewage systems, and encouraging on-site sewage disposal system technologies that present greater treatment performance, particularly regarding the reduction or removal of nitrogen.

(3) The local board of health shall provide at least a sixty-day public comment period and hold a public hearing on the proposed on-site sewage disposal system program implementation plan. The local health officer shall submit the draft plan to the department for review and comment. The local board of health shall approve the implementation plan after consideration of the public comments on the plan.

(4) Within ten days of adoption by the local board of health, the local health officer shall submit a copy of the implementation plan to the department for review and approval as provided in section 6 of this act.

NEW SECTION. **Sec. 5.** Each local health officer shall develop and maintain an electronic data system of all on-site sewage disposal systems within marine recovery areas to enable local health jurisdictions to actively manage on-site sewage disposal systems. In developing electronic data systems, the department shall work with local health jurisdictions with marine recovery areas and the on-site sewage disposal system industry to develop common forms and protocols to facilitate sharing and aggregation of information, including the reporting of failing on-site sewage disposal systems in marine recovery areas. The local data system should be compatible with the data system used throughout the local health jurisdiction.

NEW SECTION. **Sec. 6.** (1) The department shall review an on-site sewage disposal system program implementation plan submitted by the local health officer to ensure all the elements of the plan, including designation of any marine recovery area, have been addressed. The board may adopt additional criteria for plan approval by rule.

(2) Within thirty days of receiving the plan, the department shall either approve the plan or provide in writing the reasons for not approving the plan and recommend changes. If the department does not approve the plan, the local board of health must amend and resubmit the plan to the department for approval.

(3) Upon receipt of department approval or after thirty days without notification, whichever comes first, the local health officer shall implement the plan.

(4) If the department denies approval of the plan, the local board of health may appeal the denial to the state board of health, which will have final resolution of the matter.

(5) The department shall provide assistance to local health jurisdictions on:

(a) Developing on-site sewage disposal system program implementation plans required by section 3 of this act;

(b) Identifying reasonable methods for finding unknown on-site sewage disposal systems; and

(c) Developing or enhancing electronic data systems that will enable each local health jurisdiction to actively manage all on-site sewage disposal systems within their jurisdictions, with the priority given to those on-site sewage disposal systems that are located or could affect the designated marine recovery areas.

NEW SECTION. **Sec. 7.** (1) The department shall enter into a contract with each of the counties subject to this chapter to implement the approved on-site sewage disposal system program

implementation plan developed under this chapter, and to develop or enhance the data management system required by this chapter. The contract shall include state funding assistance to the local health jurisdiction from funds appropriated to the department for this purpose.

(2) The contract shall require, at a minimum, that within the marine recovery area, the local health jurisdiction:

(a) Show progressive improvement in finding failing systems;

(b) Show progressive improvement in working with on-site sewage disposal system owners to make needed system repairs;

(c) Is actively taking steps to find previously unknown on-site sewage disposal systems and ensure they are inspected as required and repaired if necessary;

(d) Show progressive improvement in the percentage of on-site sewage disposal systems that are included in an electronic data system; and

(e) Of those on-site sewage disposal systems in the electronic data system, show progressive improvement in the percentage that have had required inspections.

(3) The contract must also include provisions for state assistance in updating the implementation plan. Beginning July 1, 2009, the contract may adopt revised compliance dates, including those in section 4 of this act, where substantial progress has been demonstrated in plan implementation.

NEW SECTION. **Sec. 8.** The provisions of this chapter are supplemental to all other authorities governing on-site sewage disposal systems, including chapter 70.118 RCW and rules adopted under that chapter.

NEW SECTION. **Sec. 9.** (1) The department of health shall report electronically to the appropriate committees of the legislature by December 31, 2007, on progress in designating marine recovery areas and developing and implementing on-site sewage disposal system implementation plans for such areas.

(2) The report shall include information on:

(a) The status of plans in each county covered by sections 1 through 8 of this act;

(b) The status of system location, identification, and inclusion within the electronic data base in each county, including estimates of the remaining systems within marine recovery areas that have not been identified or included within the data base;

(c) The shoreline areas for which sanitary surveys have been completed by the department;

(d) The progress of and capacity of local health jurisdictions to identify on-site sewage disposal systems within such areas and to ensure that failing systems are repaired and all systems are operated and maintained in compliance with board of health standards;

(e) Regulatory, statutory, and financial barriers to implementing the plan;

(f) Recommendations that will assist local health jurisdictions to successfully implement plans; and

(g) Recommendations for the professional certification of on-site sewage disposal system operation and maintenance personnel, developed in consultation with local health jurisdictions, the on-site sewage disposal system industry, and other affected stakeholders.

(3) Local health jurisdictions shall provide information and data requested by the department of health in developing the reports, and the department shall append all reports or information that the local health jurisdictions request to be included in the report.

Sec. 10. RCW 43.20.050 and 1993 c 492 s 489 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Public water system management and reporting requirements;

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

(v) Public water system operation and maintenance requirements;

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

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

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

and disposal facilities;

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

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

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

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

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

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

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

(6) In addition to the powers and duties to adopt rules for on-site sewage disposal systems as provided in subsection (2) of this section, the state board of health shall adopt rules to address environmental impacts associated with low-dissolved oxygen in marine waters caused wholly or in part by on-site sewage disposal systems, as defined in section 2 of this act.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.155 RCW to read as follows:

(1) From funds specifically appropriated in the biennial appropriations act for the purposes of this section, the department shall administer a program of financial assistance for the repair and replacement of on-site sewage disposal systems in counties with marine waters. For purposes of this section, on-site sewage disposal system has the same meaning as defined in section 2 of this act.

(2) The department shall design an application process for this financial assistance in coordination with the Puget Sound action team and the departments of health and ecology. The department may contract with private financial institutions to administer the banking functions involved in this financial assistance program. The application process must ensure that:

(a) Applications are readily accessible at the local level through local health districts and departments, and that the application process is easy to understand and complete by homeowners with technical assistance provided by local health districts and departments.

(b) Applications are prioritized based on the level of reductions in environmental and public health problems that will be achieved by the proposed on-site sewage disposal system repair or replacement.

(c) Applicants will provide proper inspection and maintenance of the system repaired or installed to standards required by the local health jurisdiction and applicable standards under rules adopted by the state board of health.

(3) In consultation with the departments of health and ecology, the department shall design the financial assistance program to provide a combination of grants and low-interest and/or deferred-payment loans. The program shall provide grants based on financial need of the applicant. The portion of financial assistance provided through grants shall be larger in the first five years of the program to encourage homeowners with failing on-site sewage disposal systems to repair and replace those systems as early as possible.

NEW SECTION. **Sec. 12.** Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005."

On page 1, line 2 of the title, after "areas;" strike the remainder of the title and insert "amending RCW 43.20.050; adding a new section to chapter 43.155 RCW; adding a new chapter to Title 70 RCW; creating new sections; providing an effective date; and declaring an emergency."

Representative Buck moved the adoption of amendment (261) to amendment (197):

On page 2, line 18 of the amendment, after "pits;" insert "or"

On page 2, line 20 of the amendment, after "water" strike "; or" and insert "."

On page 2, beginning on line 21 of the amendment, strike of all subsection (f)

On page 3, line 9 of the amendment, after "disposal system" strike all material through "required." on page 3, line 12 of the amendment, and insert "for which the local health jurisdiction has no record of the on-site sewage disposal system."

Representative Buck spoke in favor of the adoption of the amendment to the amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the amendment.

The amendment to the amendment was not adopted.

Representative Buck moved the adoption of amendment (262) to amendment (197):

On page 3, line 17 of the amendment, after "concerns," insert "as determined by a scientific study verifying the hydraulic continuity between the on-site sewage disposal systems and the marine recovery area,"

Representative Buck spoke in favor of the adoption of the amendment to the amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the amendment.

An electronic roll call vote was demanded and the demand was sustained.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (262) to Second Substitute House Bill No. 1458.

ROLL CALL

The Clerk called the roll on the adoption of amendment (262) to Second Substitute House Bill No. 1458, and the amendment was not adopted by the following vote: Yeas - 41, Nays - 56, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 41.

Voting nay: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 56.

Excused: Representative Curtis - 1.

Representative Buck moved the adoption of amendment (258) to amendment (197):

On page 3, line 24 of the amendment, after "(2)" insert:

"Before proposing a marine recovery area, the local health jurisdiction must notify all known and suspected on-site sewage disposal system owners within such area regarding the possible marine recovery area designation and development of an on-site sewage disposal system implementation plan. The local health jurisdiction shall invite involvement from the public and provide a ninety day public comment period before proposing or designating a marine recovery area.

(3)"

On page 3, beginning on line 28, strike "(3)" and insert "(4)"

Representatives Buck and Ericksen spoke in favor of the adoption of the amendment to the amendment.

Representatives B. Sullivan and Hunt spoke against the adoption of the amendment to the amendment.

An electronic roll call vote was demanded and the demand was sustained.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (258) to Second Substitute House Bill No. 1458.

ROLL CALL

The Clerk called the roll on the adoption of amendment (258) to Second Substitute House Bill No. 1458, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 54, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Eickmeyer, Ericksen, Haler, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Quall, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 43.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 54.

Excused: Representative Curtis - 1.

Representative Hunt moved the adoption of amendment (229) to amendment (197):

On page 4, line 18 of the amendment, after "additional" insert "minimum"

On page 4, line 19 of the amendment, after "that" strike "are commensurate with" and insert "will mitigate"

Representative Hunt spoke in favor of the adoption of the amendment to the amendment.

The amendment was adopted.

Representative Buck moved the adoption of amendment (272) to amendment (197):

On page 5, line 18 of the amendment, after "areas." insert "Before any information regarding on-site sewage disposal systems is provided by personnel from the on-site sewage system industry to local health jurisdictions, the on-site sewage disposal system owner must provide his or her written consent."

Representative Buck spoke in favor of the adoption of the amendment to the amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the amendment.

The amendment was not adopted.

Representative Buck moved the adoption of amendment (259) to amendment (197):

Beginning on page 7, line 35 of the amendment, strike of all section 10

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

Representative Buck spoke in favor of the adoption of the amendment to the amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the amendment.

The amendment was not adopted.

Representative Buck moved the adoption of amendment (260) to amendment (197):

On page 10, line 19 of the amendment, after "act." insert "Rules adopted under this subsection do not apply to on-site sewage disposal systems existing as of the effective date of this act."

Representatives Buck and Pearson spoke in favor of the adoption of the amendment to the amendment.

Representative B. Sullivan spoke against the adoption of the amendment to the amendment.

The amendment was not adopted.

The question before the House was amendment (197) as amended.

The amendment 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.

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

Representatives Buck, Hinkle and Sump spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1458.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1458 and the bill passed the House by the following vote: Yeas - 56, Nays - 41, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 56.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kessler, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 41.

Excused: Representative Curtis - 1.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1458, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1830, By Representatives Hunt, Jarrett, Morrell, McDonald, Pettigrew, Hasegawa, Eickmeyer, Clibborn, Simpson and Ericks

Regarding alternative public works contracting procedures.

The bill was read the second time.

Representative Haigh moved that Substitute House Bill No. 1830 be substituted for House Bill No. 1830 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1830 was read the second time.

Representative Haigh moved the adoption of amendment (319):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 39.10 RCW to read as follows:

(1) The capital projects review board is created in the office of financial management to provide ongoing oversight and evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and to advise the legislature on policies related to major public works delivery methods.

(2)(a) The capital projects review board shall consist of the following members appointed by the governor: one representative from construction general contracting, one representative from the design industries; two representatives from construction specialty subcontracting; one representative from a construction trades labor organization; one representative from a city; one representative from a county; one representative from the office of minority and women's business enterprises; one representative from a higher education institution; one representative from the department of general administration; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington State. All appointed members must be actively engaged in or authorized to use alternative public works contracting procedures.

(b) One member shall be a member of the public hospital district project review board, selected by that board, who shall be non-voting.

(c) One member shall be a member of the school district project review board, selected by that board, who shall be non-voting.

(d) The executive officer of the review board, as named in subsection (10) of this section, shall serve as a non-voting member.

(e) The review board shall include two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives, and two members of the senate, one from each major caucus, appointed by the president of the senate. Legislative members are nonvoting.

(3) Members selected under subsection (2)(a) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial members, four members shall serve four-year terms, four members shall serve three-year terms, and three members shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(4) The capital projects review board chair is selected from among the appointed members by the majority vote of the voting members.

(5) The capital projects review board may adopt rules as necessary to carry out the duties set forth in this act.

(6) Legislative members of the capital projects review board shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the capital projects review board, including any subcommittee members, except those representing an employer or organization, shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(7) If a vacancy occurs of the appointive members of the board, the governor shall fill the vacancy for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(8) The capital projects review board shall convene as soon as practical after July 1, 2005, and may meet as often as necessary thereafter.

(9) Capital projects review board members are expected to consistently attend review board meetings. The chair of the capital projects review board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause.

(10) The office of financial management shall employ a director of the review board. The director shall be the executive officer of the review board and shall administer the provisions of this act. The office of financial management shall provide additional staff support as may be required for the proper discharge of the function of the capital projects review board.

(11) The capital projects review board may establish subcommittees as it desires and may invite nonmembers of the capital projects review board to serve as committee members.

(a) The school district project review board shall be a subcommittee of the capital projects review board and shall approve projects as outlined in RCW 39.10.115.

(b) The public hospital district review board shall be a subcommittee of the capital projects review board and shall approve projects as outlined in RCW 39.10.117.

(12) The committee shall encourage participation from persons and entities not represented on the capital projects review board.

(13) For purposes of this act, major capital projects are projects estimated to cost over five million dollars.

NEW SECTION. **Sec. 2.** A new section is added to chapter 39.10 RCW to read as follows:

The capital projects review board has the following powers and duties:

(1) Provide ongoing analysis and evaluation of the use of the traditional public works procedures and alternative public works contracting procedures authorized under this chapter and evaluate the potential future use of other alternative contracting procedures;

(2) Ensure that consistent, reliable, and standardized project information is gathered and used to analyze the impact of contracting policies on the outcome of major capital projects. The review board shall, in consultation with the office of financial management, develop standardized statewide performance indicators and benchmarks for all major capital projects. These measures should, at a minimum, allow basic comparisons of project performance by type, scope, cost, schedule, quality, and contracting procedure. To avoid unnecessary duplication, use of these indicators and benchmarks should be incorporated into, or derived from, existing state and local agency reports to the greatest extent possible;

(3) Establish criteria that may be used to determine effective and feasible use of alternative contracting procedures;

(4) Develop qualification standards for general contractors bidding on alternative public works projects;

(5) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of major capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination or modification of the alternative public works contracting methods;

(6) Public bodies using the alternative contracting procedures authorized under this chapter shall provide any requested information concerning implementation of projects under this chapter to the committee in a timely manner, excepting any trade secrets or proprietary information;

(7) Encourage the transfer of knowledge through formal or informal mentoring opportunities and the development of model documents or guidelines that incorporate lessons learned from previous state and local projects; and

(8) Periodically assess the use of alternative dispute resolution

processes in public works projects to determine their effectiveness at resolving conflicts and disputes before they reach litigation and, if necessary, recommend to the legislature modifications of state policy. The review board may work with public and private dispute resolution organizations to inform agencies about effective methods of incorporating dispute resolution mechanisms into their public works projects.

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, 2005, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representative Clements moved adoption of amendment (332) to amendment (319):

On page 4, line 7 of the amendment, after "Develop" insert "and recommend to the legislature"

Representatives Clements and Haigh spoke in favor of the adoption of the amendment.

The amendment was adopted.

The question before the House was the adoption of amendment (319) as amended.

The amendment 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.

Representatives Haigh, Nixon, Armstrong, Hunt and Miloscia spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1830.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1830 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1830, having received the necessary constitutional majority, was declared passed.

There being no objection, the Rules Committee was relieved of the following bills, and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1011,
HOUSE BILL NO. 1097,
HOUSE BILL NO. 1106,
HOUSE BILL NO. 1169,
HOUSE BILL NO. 1210,
HOUSE BILL NO. 1216,
HOUSE BILL NO. 1218,
HOUSE BILL NO. 1241,
HOUSE BILL NO. 1254,
HOUSE BILL NO. 1311,
HOUSE BILL NO. 1399,
HOUSE BILL NO. 1446,
HOUSE BILL NO. 1465,
HOUSE BILL NO. 1538,
HOUSE BILL NO. 1541,
HOUSE BILL NO. 1591,
HOUSE BILL NO. 1685,
HOUSE BILL NO. 1747,
HOUSE BILL NO. 1793,
HOUSE BILL NO. 1799,
HOUSE BILL NO. 1850,
HOUSE BILL NO. 1887,
HOUSE BILL NO. 1893,
HOUSE BILL NO. 1995,
HOUSE BILL NO. 2035,
HOUSE BILL NO. 2131,
HOUSE BILL NO. 2219,
HOUSE BILL NO. 2224,
HOUSE BILL NO. 2225,
HOUSE BILL NO. 2254,
HOUSE BILL NO. 2270,

HOUSE BILL NO. 1643, By Representative B. Sullivan

Extending liability immunity to certain skate parks that charge a nominal fee.

The bill was read the second time.

Representative Lantz moved that Substitute House Bill No. 1643 be substituted for House Bill No. 1643 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1643 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.

Representative B. Sullivan spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1643.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1643 and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Cox and Holmquist - 2.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 1643, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1402, By Representative O'Brien; by request of Sentencing Guidelines Commission

Regulating supervision of offenders who travel or transfer to or from another state.

The bill was read the second time.

Representative Fromhold moved that Substitute House Bill No. 1402 be substituted for House Bill No. 1402 and the substitute bill be placed on the second reading calendar. The motion was adopted.

SUBSTITUTE HOUSE BILL NO. 1402 was read the second time.

Representative O'Brien moved the adoption of amendment (320):

On page 5, at the beginning of line 20, strike all material through the end of line 23

On page 6, at the beginning of line 30, strike all material through the end of line 33

On page 7, at the beginning of line 21, strike all material through the end of line 24

Representatives O'Brien and Pearson spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives O'Brien and Pearson spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1402.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1402 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1402, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

March 14, 2005

Mr. Speaker:

The Senate has passed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5060,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5158,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5164,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5213,
SUBSTITUTE SENATE BILL NO. 5449,
SUBSTITUTE SENATE BILL NO. 5552,
ENGROSSED SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5788,
SUBSTITUTE SENATE BILL NO. 5789,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5872,
SENATE BILL NO. 6012,
SUBSTITUTE SENATE BILL NO. 6022,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 14, 2005

Mr. Speaker:

The Senate has passed:
SUBSTITUTE SENATE BILL NO. 5052,
SUBSTITUTE SENATE BILL NO. 5064,
SUBSTITUTE SENATE BILL NO. 5178,
SUBSTITUTE SENATE BILL NO. 5237,
SENATE BILL NO. 5325,
SENATE BILL NO. 5330,
SENATE BILL NO. 5340,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5499,
SUBSTITUTE SENATE BILL NO. 5551,
SUBSTITUTE SENATE BILL NO. 5614,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5699,
SUBSTITUTE SENATE BILL NO. 5775,
SUBSTITUTE SENATE BILL NO. 5902,
SUBSTITUTE SENATE BILL NO. 5992,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

SECOND READING

HOUSE BILL NO. 2060, By Representatives Cody, Schual-Berke, Appleton, Morrell, Moeller, Green, Clibborn, Kenney, Upthegrove, Conway, Chase, Darneille, Haigh and Santos

Expanding participation in state purchased health care programs.

The bill was read the second time.

Representative Fromhold moved that Substitute House Bill No. 2060 be substituted for House Bill No. 2060 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2060 was read the second time.

Representative Bailey moved the adoption of amendment (170):

Beginning on page 3, line 34, strike all of section 2

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

Representatives Bailey and Cody spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Cody moved adoption of amendment (271):

On page 9, line 37, after "health care authority" strike "may" and insert "shall"

On page 12, line 26, after "coverage" insert ", whichever entity administered the standard health questionnaire,"

Beginning on page 13, line 1, strike all of section 4

Correct the title.

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

The amendment 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.

Representative Cody spoke in favor of passage of the bill.

Representative Bailey spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2060.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2060 and the bill passed the House by the following vote: Yeas - 60, Nays - 37, Absent - 0,

Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Tom, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 60.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kretz, Kristiansen, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 37.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2060, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2060.

MARY SKINNER, 14th District

HOUSE BILL NO. 2069, By Representatives Morrell, Hankins, Cody, Sells, Green, Kenney, Moeller, Conway and Chase; by request of Governor Gregoire

Expanding access to insurance coverage through the small business assist program.

The bill was read the second time.

Representative Sommers moved that Second Substitute House Bill No. 2069 be substituted for House Bill No. 2069 and the second substitute bill be placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2069 was read the second time.

With the consent of the House, amendments (165), (167), (168), (169) and (222) were withdrawn.

Representative Cody moved the adoption of amendment (288):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.47.010 and 2000 c 79 s 42 are each amended to read as follows:

(1)(((~~(a) The legislature finds that limitations on access to health care services for enrollees in the state, such as in rural and underserved areas, are particularly challenging for the basic health plan. Statutory restrictions have reduced the options available to the administrator to address the access needs of basic health plan enrollees. It is the intent of the legislature to authorize the administrator to develop alternative purchasing strategies to ensure access to basic health plan enrollees in all areas of the state, including: (i) The use of differential rating for managed health care systems based on geographic differences in costs; and (ii) limited use of self-insurance in areas where adequate access cannot be assured through other options.~~

~~(b) In developing alternative purchasing strategies to address health care access needs, the administrator shall consult with interested persons including health carriers, health care providers, and health facilities, and with other appropriate state agencies including the office of the insurance commissioner and the office of community and rural health. In pursuing such alternatives, the administrator shall continue to give priority to prepaid managed care as the preferred method of assuring access to basic health plan enrollees followed, in priority order, by preferred providers, fee for service, and self-funding.~~

~~(2)~~)) The legislature ((~~further~~)) finds that:

(a) A significant percentage of the population of this state does not have reasonably available insurance or other coverage of the costs of necessary basic health care services;

(b) This lack of basic health care coverage is detrimental to the health of the individuals lacking coverage and to the public welfare, and results in substantial expenditures for emergency and remedial health care, often at the expense of health care providers, health care facilities, and all purchasers of health care, including the state; and

(c) The use of managed health care systems has significant potential to reduce the growth of health care costs incurred by the people of this state generally, and by low-income pregnant women, and at-risk children and adolescents who need greater access to managed health care.

(((~~(3)~~))) (2) The purpose of this chapter is to provide or make more readily available necessary basic health care services in an appropriate setting to working persons and others who lack coverage, at a cost to these persons that does not create barriers to the utilization of necessary health care services. To that end, this chapter establishes a program to be made available to those residents not eligible for medicare who share in a portion of the cost or who pay the full cost of receiving basic health care services from a managed health care system.

(3) The legislature further finds that many small employers struggle with the cost of providing employer-sponsored health insurance coverage to their employees and their employees' families, while others are unable to offer employer-sponsored health insurance due to its high cost. Low-wage workers also struggle with the burden of paying their share of the costs of employer-sponsored health insurance, while others turn down their employer's offer of coverage due to its costs.

(4) It is not the intent of this chapter to provide health care services for those persons who are presently covered through private employer-based health plans, nor to replace employer-based health plans. However, the legislature recognizes that cost-effective and affordable health plans may not always be available to small business employers. Further, it is the intent of the legislature to expand, wherever possible, the availability of private health care coverage and

to discourage the decline of employer-based coverage.

(5)(a) It is the purpose of this chapter to acknowledge the initial success of ((~~this~~)) the basic health plan program that has (i) assisted thousands of families in their search for affordable health care; (ii) demonstrated that low-income, uninsured families are willing to pay for their own health care coverage to the extent of their ability to pay; and (iii) proved that local health care providers are willing to enter into a public-private partnership as a managed care system.

(b) As a consequence, the legislature intends to extend an option to enroll to certain citizens above two hundred percent of the federal poverty guidelines within the state who reside in communities where the plan is operational and who collectively or individually wish to exercise the opportunity to purchase health care coverage through the basic health plan if the purchase is done at no cost to the state. It is also the intent of the legislature to allow ((~~employers and other~~)) financial sponsors to financially assist such individuals to purchase health care through the program so long as such purchase does not result in a lower standard of coverage for employees.

(c) The legislature intends that, to the extent of available funds, the programs administered under this chapter be available throughout Washington state ((~~to subsidized and nonsubsidized enrollees~~)). It is also the intent of the legislature to enroll subsidized enrollees first, to the maximum extent feasible.

(d) The legislature directs that the basic health plan administrator identify enrollees who are likely to be eligible for medical assistance and assist these individuals in applying for and receiving medical assistance. The administrator and the department of social and health services shall implement a seamless system to coordinate eligibility determinations and benefit coverage for enrollees of the basic health plan and medical assistance recipients.

(6) The legislature further finds that limitations on access to health care services for enrollees in the state, such as in rural and underserved areas, are particularly challenging. It is the intent of the legislature to authorize the administrator to develop alternative purchasing strategies to ensure access to enrollees of the programs administered under this chapter in all areas of the state, including but not limited to: (a) The use of differential rating for managed health care systems based on geographic differences in costs; and (b) self-insurance in areas where adequate access cannot be ensured through other options.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.47 RCW to read as follows:

(1) The small business assist program is hereby established, to be separate and distinct from the Washington basic health plan. The legislature intends that the small business assist program make health care coverage more affordable to small employers, their employees, and dependents. By blending private and public funds through the premium assistance option authorized by this section, the legislature intends to increase the number of low-income workers with health coverage in Washington state. The administrator shall offer two coverage options to small employers, their employees and dependents through the small business assist program:

(a) Group enrollment in a small business assist health benefit plan offered by the administrator under subsections (2) through (6) of this section; and

(b) Premium assistance for low-income employees under subsections (7) through (11) of this section.

(2) No later than January 1, 2007, the administrator may accept applications from employers on behalf of themselves and their employees, spouses, and dependent children, as small business assist group enrollees. Small employers who have not provided employer-sponsored health care coverage for at least six months prior to the date of application may apply for enrollment as a group. For purposes of this section, prior employer-sponsored coverage as a subsidized enrollee in the basic health plan shall not be considered employer-sponsored health coverage.

(3) The administrator may require all or the substantial majority of the eligible employees of small employers to enroll and may establish procedures necessary to facilitate the orderly enrollment of small employer groups in the small business assist program and into a managed health care system.

(4) The administrator shall design and from time to time revise one or more health benefit plans to be provided to small business assist group enrollees. Alternative health benefit plans may vary with respect to services covered, deductibles, or other cost-sharing amounts paid by enrollees. A high deductible health benefit plan option shall be included if two or more health benefit plans are offered through the small business assist group option. The structure of covered services and cost-sharing shall discourage inappropriate enrollee utilization of health care services. In designing and revising health benefit plans, the administrator shall consider the guidelines for assessing health services under RCW 48.47.030.

(5) The administrator shall determine the periodic premiums to be paid by small business assist group enrollees. Premiums due from small business assist group enrollees shall be in an amount equal to the amount negotiated by the administrator with the participating managed health care system or systems plus the administrative cost of providing coverage to those enrollees and the premium tax under RCW 48.14.0201. The administrator shall adjust the premium 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 coverage to such enrollees changes.

(6) Small business assist group health benefit plans offered under this section are subject to the requirements of Title 48 RCW.

(7) Beginning July 1, 2006, the administrator may accept applications for premium assistance from individuals whose current small employer has not offered health insurance within the last six months, on behalf of themselves and their spouses and dependent children. The administrator may determine the minimum premium contribution to be paid by small employers whose employees are participating in this premium assistance option.

(8) To the extent of funding provided in the biennial operating budget, the administrator may make premium assistance payments to help employees pay their premium obligation for their employer's health benefit plan, including small business assist group enrollment under this section. Premium assistance payments may be made when:

(a) The individual seeking premium assistance, plus the individual's spouse and dependent children: (i) Is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (ii) has gross family income at the time of enrollment that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; (iii) resides within the state of Washington; and (iv) meets the definition of eligible employee as defined in RCW 48.43.005;

(b) The premium assistance paid would be less than the subsidy that would be paid if the individual, or the individual plus his or her spouse and dependent children, were to enroll in the Washington basic health plan under this chapter as subsidized enrollees. The amount of an individual's premium assistance shall be determined by applying the percent of premium subsidy paid for subsidized basic

health plan enrollees under RCW 70.47.060 to the employee's premium obligation for his or her employer's health benefit plan;

(c) The premium assistance enrollee agrees to provide verification of continued enrollment in his or her small employer's health benefit plan on a semiannual basis, or to notify the administrator whenever his or her enrollment status changes, whichever is earlier. Verification or notification may be made directly by the employee, or through his or her employer or the carrier providing the small employer health benefit plan. When necessary, the administrator has the authority to perform retrospective audits on premium assistance accounts.

(9) The administrator may adopt standards for minimum thresholds of small employer health benefit plans for which premium assistance will be paid under this section. The office of insurance commissioner under Title 48 RCW shall certify that small employer health benefit plans meet any standards developed under this subsection.

(10) The administrator, in consultation with small employers, carriers, and the office of insurance commissioner under Title 48 RCW, shall determine an effective and efficient method for the payment of premium assistance and adopt rules necessary for its implementation.

(11) 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 may not be counted toward a family's current gross family income for the purposes of this act. No premium assistance may be paid to an employee whose current gross family income exceeds twice the federal poverty level or who is a recipient of medical assistance or medical care services under chapter 74.09 RCW.

(12) Administrative functions necessary to implement this section may be carried out by staff of the Washington basic health plan in order to minimize administrative costs of operating the small business assist program.

Sec. 3. RCW 70.47.015 and 1997 c 337 s 1 are each amended to read as follows:

(1) The legislature finds that the basic health plan has been an effective program in providing health coverage for uninsured residents. Further, since 1993, substantial amounts of public funds have been allocated for subsidized basic health plan enrollment.

(2) ((~~It is the intent of the legislature that the basic health plan enrollment be expanded expeditiously, consistent with funds available in the health services account, with the goal of two hundred thousand adult subsidized basic health plan enrollees and one hundred thirty thousand children covered through expanded medical assistance services by June 30, 1997, with the priority of providing needed health services to children in conjunction with other public programs.~~

~~(3)~~)) Effective January 1, 1996, basic health plan enrollees whose income is less than one hundred twenty-five percent of the federal poverty level shall pay at least a ten-dollar premium share.

(((~~(4)~~))) (3) No later than July 1, 1996, the administrator shall implement procedures whereby hospitals licensed under chapters 70.41 and 71.12 RCW, health carrier, rural health care facilities regulated under chapter 70.175 RCW, and community and migrant health centers funded under RCW 41.05.220, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

(((~~(5) No later than July 1, 1996,~~))) (4) The administrator ((~~shall~~)) may implement procedures whereby health insurance agents and brokers, licensed under chapter 48.17 RCW, may expeditiously assist patients and their families in applying for basic health plan or ((~~medical assistance coverage,~~)) small business assist coverage and in submitting such applications directly to the health care authority ((~~or the department of social and health services~~)). Brokers and agents may receive a commission for each individual sale of the basic health plan or small business assist group enrollment to anyone not signed up within the previous five years ((~~and a commission for each group sale of the basic health plan~~)), if sufficient funding ((~~for this purpose is provided in a specific appropriation~~)) is appropriated to the health care authority for marketing and administration. No commission shall be provided upon a renewal. ((~~Commissions shall be determined based on the estimated annual cost of the basic health plan, however, commissions shall not result in a reduction in the premium amount paid to health carriers.~~)) For purposes of this section "health carrier" is as defined in RCW 48.43.005. The administrator may establish: (a) Minimum educational requirements that must be completed by the agents or brokers; (b) an appointment process for agents or brokers marketing the basic health plan or the small business assist program; or (c) standards for revocation of the appointment of an agent or broker to submit applications for cause, including untrustworthy or incompetent conduct or harm to the public. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

Sec. 4. RCW 70.47.020 and 2004 c 192 s 1 are each amended to read as follows:

As used in this chapter:

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

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

(3) "Small employer" means the same as is defined in RCW 48.43.005(24).

(4) "Enrollee" means a subsidized enrollee, nonsubsidized enrollee, health coverage tax credit eligible enrollee, or small business assist group enrollee.

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

(((~~(4)~~))) (6) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(((~~(5)~~))) (7) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract ((~~basic~~)) health care services, as defined by the administrator and rendered by

duly licensed providers, to a defined patient population enrolled in ((~~the plan~~)) a program administered under this chapter and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to ((~~subsidized~~)) enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(((~~(6)~~))) (8) "Subsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who resides in an area of the state served by a managed health care system participating in the plan; (d) whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and (e) who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan. To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, "subsidized enrollee" also means an individual, or an individual's spouse or dependent children, who meets the requirements in (a) through (c) and (e) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

(((~~(7)~~))) (9) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who resides in an area of the state served by a managed health care system participating in the plan; (d) who chooses to obtain basic health care coverage from a particular managed health care system; and (e) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(((~~(8)~~))) (10) "Small business assist group enrollee" means an employee who is employed by a small employer and who resides or works in Washington and enrolls in the small business assist program through the group enrollment option created under section 2 of this act.

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

(((~~(9)~~))) (12) "Premium" means a periodic payment((~~, based upon gross family income~~)) which an individual, ((~~their~~)) an employer, or ((~~another~~)) a financial sponsor makes to the ((~~plan~~)) administrator as consideration for ((~~enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee~~)) health care coverage through small business assist group enrollment or a program administered under this chapter.

(((~~(10)~~))) (13) "Rate" means the amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the ((~~enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible~~)) number of enrollees in ((~~the plan and in~~)) that system.

Sec. 5. RCW 70.47.060 and 2004 c 192 s 3 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 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.

(c) 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.

(d) ((~~An employer or other~~)) A 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.

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

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

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

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

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

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

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

(9) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as ((~~eligible basic~~)) health care providers under the ((~~plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees~~)) programs administered under this chapter. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the basic health 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~~)) appropriate 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 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)~~))) (13) 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~~)) state. 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)~~))) (14) 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)~~))) (15) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(((~~(17)~~))) (16) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(((~~(18)~~))) (17) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

(((~~(19)~~))) (18) To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

Sec. 6. RCW 70.47.100 and 2004 c 192 s 4 are each amended to read as follows:

(1) A managed health care system participating in ((~~the plan~~)) a program administered under this chapter shall do so by contract with the administrator and shall provide, directly or by contract with other health care providers, covered ((~~basic~~)) health care services to each enrollee covered by its contract with the administrator as long as payments from the administrator on behalf of the enrollee are current. A participating managed health care system may offer, without additional cost, health care benefits or services not included in the schedule of covered services under the plan. A participating managed health care system shall not give preference in enrollment to enrollees who accept such additional health care benefits or services. Participating managed health care systems ((~~participating in the plan~~)) shall not discriminate against any potential or current enrollee based upon health status, sex, race, ethnicity, or religion. The administrator may receive and act upon complaints from enrollees regarding failure to provide covered services or efforts to obtain payment, other than authorized copayments, for covered services directly from enrollees, but nothing in this chapter empowers the administrator to impose any sanctions under Title 18 RCW or any other professional or facility licensing statute.

(2) The plan shall allow, at least annually, an opportunity for enrollees to transfer their enrollments among participating managed health care systems serving their respective areas. The administrator shall establish a period of at least twenty days in a given year when this opportunity is afforded enrollees, and in those areas served by more than one participating managed health care system the administrator shall endeavor to establish a uniform period for such opportunity. The plan shall allow enrollees to transfer their enrollment to another participating managed health care system at any time upon a showing of good cause for the transfer.

(3) Prior to negotiating with any managed health care system, the administrator shall determine, on an actuarially sound basis, the reasonable cost of providing the schedule of ((~~basic~~)) health care services, expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different areas of the state.

(4) In negotiating with managed health care systems for participation ((~~in the plan~~)), the administrator shall adopt a uniform procedure that includes at least the following:

(a) The administrator shall issue a request for proposals, including standards regarding the quality of services to be provided; financial integrity of the responding systems; and responsiveness to the unmet health care needs of the local communities or populations that may be served;

(b) The administrator shall then review responsive proposals and may negotiate with respondents to the extent necessary to refine any proposals;

(c) The administrator may then select one or more systems to provide the covered services within a local area; and

(d) The administrator may adopt a policy that gives preference to respondents, such as nonprofit community health clinics, that have a history of providing quality health care services to low-income persons.

(5) The administrator may contract with a managed health care system to provide covered ((~~basic~~)) health care services to subsidized enrollees, nonsubsidized enrollees, health coverage tax credit eligible enrollees, small business assist group enrollees, or any combination thereof.

(6) The administrator may establish procedures and policies to further negotiate and contract with managed health care systems following completion of the request for proposal process in subsection (4) of this section, upon a determination by the administrator that it is necessary to provide access, as defined in the request for proposal documents, to covered ((~~basic~~)) health care services for enrollees.

(7)(((~~(a)~~))) The administrator ((~~shall~~)) may implement a self-funded or self-insured method of providing insurance coverage to ((~~subsidized~~)) enrollees, as provided under RCW 41.05.140, if ((~~one of the following conditions is met:~~

~~(i) The authority~~)):

(a) The administrator determines that no managed health care system other than the authority is willing and able to provide access((~~, as defined in the request for proposal documents,~~)) to covered ((~~basic~~)) health care services ((~~for all subsidized enrollees~~)) in ((~~an~~)) a given area((~~; or~~

~~(ii) The authority determines that no other managed health care system is willing to provide access, as defined in the request for proposal documents, for one hundred thirty-three percent of the statewide benchmark price or less, and the authority is able to offer such coverage at a price that is less than the lowest price at which any other managed health care system is willing to provide such access in an area.~~

~~(b) The authority shall initiate steps to provide the coverage described in (a) of this subsection within ninety days of making its determination that the conditions for providing a self-funded or self-~~

~~insured method of providing insurance have been met.~~

~~(c) The administrator may not implement a self-funded or self-insured method of providing insurance in an area unless~~)) for subsidized enrollees at a rate consistent with the appropriation and enrollment levels assumed in the biennial operating budget, and for other enrollees, at a rate consistent with the cost of comparable health benefit plans in the commercial market; and

(b) The administrator has received a certification from a member of the American academy of actuaries that the funding available in the basic health plan or small business assist self-insurance reserve account is sufficient for the self-funded or self-insured risk assumed, or expected to be assumed, by the administrator.

Sec. 7. RCW 70.47.120 and 1997 c 337 s 7 are each amended to read as follows:

In addition to the powers and duties specified in RCW 70.47.040 and 70.47.060, the administrator has the power to enter into contracts for the following functions and services:

(1) With public or private agencies, to assist the administrator in her or his duties to design or revise the schedule of covered ((~~basic health care~~)) services for a program administered under this chapter, and/or to monitor or evaluate the performance of participating managed health care systems.

(2) With public or private agencies, to provide technical or professional assistance to health care providers, particularly public or private nonprofit organizations and providers serving rural areas, who show serious intent and apparent capability to participate in ((~~the plan~~)) a program administered under this chapter as managed health care systems.

(3) With public or private agencies, including health care service contractors registered under RCW 48.44.015, and doing business in the state, for marketing and administrative services in connection with participation of managed health care systems, enrollment of enrollees, billing and collection services to the administrator, and other administrative functions ordinarily performed by health care service contractors, other than insurance. Any activities of a health care service contractor pursuant to a contract with the administrator under this section shall be exempt from the provisions and requirements of Title 48 RCW except that persons appointed or authorized to solicit applications for enrollment in ((~~the basic health plan~~)) a program administered under this chapter shall comply with chapter 48.17 RCW.

NEW SECTION. **Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The department shall make every effort to maximize opportunities to blend public and private funds through subsidization of small employer health benefit plan premiums on behalf of individuals eligible for medical assistance and children eligible for the state children's health insurance program when such subsidization is cost-effective for the state. In developing policies under this section, the department shall consult with the health care authority and, to the extent allowed by federal law, develop policies that are consistent with those policies developed by the health care authority under the premium assistance option in section 2 of this act so that entire families have the opportunity to enroll in the same small employer health benefit plan.

(2) If a federal waiver is necessary to achieve consistency with health care authority policies under section 2 of this act, the department shall notify the relevant fiscal and policy committees of the legislature on or before December 1, 2005. The notification must include recommendations regarding federal waiver options that would provide the flexibility needed to optimize the use of medical assistance and state children's health insurance program funds to subsidize small employer health benefit plan premiums on behalf of low-income families.

Sec. 9. RCW 70.47.160 and 1995 c 266 s 3 are each amended to read as follows:

(1) The legislature recognizes that every individual possesses a fundamental right to exercise their religious beliefs and conscience. The legislature further recognizes that in developing public policy, conflicting religious and moral beliefs must be respected. Therefore, while recognizing the right of conscientious objection to participating in specific health services, the state shall also recognize the right of individuals enrolled with ((~~the basic health plan~~)) a program administered under this chapter to receive the full range of services covered under ((~~the basic health plan~~)) that program.

(2)(a) No individual health care provider, religiously sponsored health carrier, or health care facility may be required by law or contract in any circumstances to participate in the provision of or payment for a specific service if they object to so doing for reason of conscience or religion. No person may be discriminated against in employment or professional privileges because of such objection.

(b) The provisions of this section are not intended to result in an enrollee being denied timely access to any service included in ((~~the basic health plan~~)) their benefits package. Each health carrier shall:

(i) Provide written notice to enrollees, upon enrollment with the plan, listing services that the carrier refuses to cover for reason of conscience or religion;

(ii) Provide written information describing how an enrollee may directly access services in an expeditious manner; and

(iii) Ensure that enrollees refused services under this section have prompt access to the information developed pursuant to (b)(ii) of this subsection.

(c) The administrator shall establish a mechanism or mechanisms to recognize the right to exercise conscience while ensuring enrollees timely access to services and to assure prompt payment to service providers.

(3)(a) No individual or organization with a religious or moral tenet opposed to a specific service may be required to purchase coverage for that service or services if they object to doing so for reason of conscience or religion.

(b) The provisions of this section shall not result in an enrollee being denied coverage of, and timely access to, any service or services excluded from their benefits package as a result of their employer's or another individual's exercise of the conscience clause in (a) of this subsection.

(c) The administrator shall define the process through which health carriers may offer the ((~~basic health plan~~)) programs administered under this chapter to individuals and organizations identified in (a) and (b) of this subsection in accordance with the provisions of subsection (2)(c) of this section.

(4) Nothing in this section requires the health care authority, health carriers, health care facilities, or health care providers to provide any ((~~basic health plan~~)) service without payment of appropriate premium share or enrollee cost sharing.

Sec. 10. RCW 41.05.140 and 2000 c 80 s 5 are each amended to read as follows:

(1) Except for property and casualty insurance, the authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction, including the basic health plan and the small business assist group

enrollment option as provided in chapter 70.47 RCW. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. The authority shall endeavor to reimburse basic health plan health care providers under this section at rates similar to the average reimbursement rates offered by the statewide benchmark plan determined through the request for proposal process.

(2) Reserves established by the authority for employee and retiree benefit programs shall be held in a separate trust fund by the state treasurer and shall be known as the public employees' and retirees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' and retirees' insurance reserve fund.

(3) Any savings realized as a result of a program created for employees and retirees under this section shall not be used to increase benefits unless such use is authorized by statute.

(4) Reserves established by the authority to provide insurance coverage for the basic health plan under chapter 70.47 RCW shall be held in a separate trust account in the custody of the state treasurer and shall be known as the basic health plan self-insurance reserve account. The state investment board shall act as the investor for the funds as set forth in RCW 43.33A.230 and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the basic health plan self-insurance reserve account.

(5) Reserves established by the authority to provide insurance coverage for the small business assist plan option under chapter 70.47 RCW shall be held in a separate trust account in the custody of the state treasurer and shall be known as the small business assist self-insurance reserve account. The state investment board shall act as the investor for the funds as set forth in RCW 43.33A.230 and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the small business assist self-insurance reserve account.

(6) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(((~~(6)~~))) (7) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(((~~(7)~~))) (8) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

Sec. 11. RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 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 students with dependents grant account, the basic health plan self-insurance reserve account, the small business assist self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool 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, and 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). 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. 12.** A new section is added to chapter 70.47 RCW to read as follows:

The small business assist trust account is hereby established in the state treasury. Any nongeneral fund--state funds collected for the small business assist group enrollment option shall be deposited in the small business assist trust account and may be expended without further appropriation. Moneys in the account shall be used

exclusively for the purposes of administering the small business assist group enrollment option, including payments to participating managed health care systems on behalf of small business assist enrollees.

NEW SECTION. **Sec. 13.** A new section is added to chapter 70.47 RCW to read as follows:

The administrator may adopt rules to carry out the purposes of this act. All rules shall be adopted in accordance with chapter 34.05 RCW."

Correct the title.

Representative Hinkle moved the adoption of amendment (339) to amendment (288):

Beginning on page 4, line 8 of the amendment, after "state." strike all material through "(7)" on page 5, line 17, and insert "(2)"

Renumber the remaining subsections consecutively and correct internal references accordingly.

On page 5, beginning on line 18 of the amendment, after "individuals" strike all material through "months," on line 20

Beginning on page 7, line 1 of the amendment, strike all of sections 3 through 13

Representative Hinkle spoke in favor of the adoption of the amendment to the amendment.

Representative Morrell spoke against the adoption of the amendment to the amendment.

The amendment to the amendment was not adopted.

Representative Bailey moved the adoption of amendment (338) to amendment (288):

On page 4, line 13 of the amendment, after "section" insert ". In offering the small business assist plan established under this subsection (1)(a), the administrator shall contract exclusively with disability insurers holding a certificate of authority and regulated under chapter 48.20 or 48.21 RCW, health care service contractors holding a certificate of authority and regulated under chapter 48.44 RCW, or health maintenance organizations holding a certificate of authority and regulated under chapter 48.46 RCW. In the event that the state health care authority, pursuant to RCW 41.05.140, chooses to self-fund or self-insure the small business assist plan established under this subsection (1)(a), the state health care authority shall obtain a certificate of authority from the office of the insurance commissioner as a disability insurer under chapter 48.20 or 48.21 RCW, as a health care service contractor under chapter 48.44 RCW, or as a health maintenance organization under chapter 48.46 RCW. The small business assist plan established under this subsection (1)(a) is subject to all applicable requirements under Title 48 RCW, and may only be offered by a health carrier as defined in RCW 48.43.005 including any self-funded or self-insured small business assist plan offered by the authority"

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

Representative Cody spoke against the adoption of the amendment to the amendment.

The amendment to the amendment was not adopted.

Representative Bailey moved the adoption of amendment (341) to amendment (288):

On page 6, line 33 of the amendment, after "(12)" strike "Administrative" and all material through "program" on line 36, and insert "All administrative costs associated with the small business assist group enrollment option shall be borne by the enrollee. The legislature shall appropriate sufficient funds to the health care authority to cover the administrative costs associated with the small business assist premium assistance option"

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

Representative Cody spoke against the adoption of the amendment to the amendment.

The amendment to the amendment was not adopted.

Representative Ericksen moved the adoption of amendment (340) to amendment (288):

On page 6, after line 36 of the amendment, insert the following:

"NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

A health carrier is authorized to offer a product to any small employer that complies with all the requirements of section 2 of this act. A health carrier that offers a product under this section shall comply with, and be exempt from, the same statutory requirements of Title 48 RCW that apply to the small business assist program product offered by the health care authority."

Renumber the remaining sections consecutively and correct internal references accordingly.

Representative Ericksen spoke in favor of the adoption of the amendment to the amendment.

Representative Morrell spoke against the adoption of the amendment to the amendment.

An electronic roll call vote was demanded and the demand was sustained.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (340) to amendment (288) to Second Substitute House Bill No. 2069.

ROLL CALL

The Clerk called the roll on the adoption of amendment (340) to amendment (288) to Second Substitute House Bill No. 2069, and the amendment was not adopted by the following vote: Yeas - 42, Nays - 55, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kilmer, Kretz, Kristiansen, Linville, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Strow, Sump, Talcott, Tom, Walsh and Woods - 42.

Voting nay: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Skinner, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 55.

Excused: Representative Curtis - 1.

The question before the House was the adoption of amendment (288).

The amendment 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.

Representatives Morrell, Cody and Eickmeyer spoke in favor of passage of the bill.

Representatives Bailey, Hinkle, Serben, Shabro, Ahern, Alexander, Anderson, Ericksen, Sump and DeBolt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2069.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2069 and the bill passed the House by the following vote: Yeas - 56, Nays - 41, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 56.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Morris, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 41.

Excused: Representative Curtis - 1.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2069, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2069.

LARRY HALER, 8th District

HOUSE BILL NO. 1383, By Representatives Condotta, Bailey, Newhouse, Curtis, Hinkle, Pearson, Kretz, Strow, Armstrong, Kristiansen, Talcott, Skinner and Holmquist

Requiring the public employees' benefits board to develop a health savings account option for employees.

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 Condotta, Cody and Serben spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1383.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1383 and the bill passed the House by the following vote: Yeas - 87, Nays - 10, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Cox, Crouse, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Haigh, Haler, Hankins,

Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kessler, Kilmer, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Woods and Mr. Speaker - 87.

Voting nay: Representatives Appleton, Conway, Darneille, Green, Kenney, Kirby, Ormsby, Schual-Berke, Simpson and Wood - 10.

Excused: Representative Curtis - 1.

HOUSE BILL NO. 1383, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on HOUSE BILL NO. 1383.
MARALYN CHASE, 32nd District

HOUSE BILL NO. 1688, By Representatives Cody, Clibborn, Moeller, Sommers, Kenney and Schual-Berke

Creating a task force to review the certificate of need program and the health care facilities bonding program.

The bill was read the second time.

Representative Sommers moved that Second Substitute House Bill No. 1688 be substituted for House Bill No. 1688 and the second substitute bill be placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1688 was read the second time.

Representative Cody moved the adoption of amendment (287):

Strike everything after the enacting clause and insert the following:

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

(1) Since the enactment of health planning and development legislation in 1979, the widespread adoption of new health care technologies has resulted in significant advancements in the diagnosis and treatment of disease, and has enabled substantial expansion of sites where complex care and surgery can be performed;

(2) New and existing technologies, supply sensitive health services, and demographics have a substantial effect on health care expenditures. Yet, evidence related to their effectiveness is not routinely or systematically considered in decision making regarding widespread adoption of these technologies and services. The principles of evidence-based medicine call for comprehensive review of data and studies related to a particular health care service or device, with emphasis given to high quality, objective studies. Findings regarding the effectiveness of these health services or devices should then be applied to increase the likelihood that they will be used appropriately;

(3) The standards governing whether a certificate of need should be granted in RCW 70.38.115 focus largely on broad concepts of access to and availability of health services, with only limited consideration of cost-effectiveness. Moreover, the standards do not provide explicit guidance for decision making or evaluating competing certificate of need applications; and

(4) The certificate of need statute plays a vital role and should be reexamined and strengthened to reflect changes in health care delivery and financing since its enactment.

NEW SECTION. **Sec. 2.** (1) A task force is created to study and prepare recommendations to the governor and the legislature related to improving and updating the certificate of need program in chapter 70.38 RCW. The report must be submitted to the governor and appropriate committees of the legislature by October 1, 2006.

(2) Members of the task force must be appointed by the governor. The task force members shall elect a member of the task force to serve as chair. Members of the task force include:

(a) Four representatives of the legislature, including one member appointed by each caucus of the house of representatives and the senate;

(b) Two representatives of private employer-sponsored health benefits purchasers;

(c) One representative of labor organizations that purchase health benefits through Taft-Hartley plans;

(d) One representative of health carriers;

(e) Two representatives of health care consumers;

(f) One health care economist;

(g) The secretary of the department of social and health services, or his or her designee;

(h) The administrator of the health care authority, or his or her designee;

(i) The secretary of the department of health; and

(j) One health care provider representative, chosen by the members of the technical advisory committee established in subsection (3) of this section, from among the members of that committee.

(3) The task force shall establish one or more technical advisory committees composed of affected health care providers and other individuals or entities who can serve as a source of technical expertise. The task force shall actively consult with, and solicit recommendations from, the technical advisory committee or committees regarding issues under consideration by the task force.

(4) Subject to the availability of amounts appropriated for this specific purpose, staff support for the task force shall be provided by the health care authority. The health care authority shall contract for technical expertise necessary to complete the responsibilities of the task force. Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050.

NEW SECTION. **Sec. 3.** (1) In conducting the certificate of need study and preparing recommendations, the task force shall be guided by the following principles:

(a) The supply of a health service can have a substantial impact on utilization of the service, independent of the effectiveness, medical necessity, or appropriateness of the particular health service for a

particular individual;

(b) Given that health care resources are not unlimited, the impact of any new health service or facility on overall health expenditures in the state must be considered;

(c) Given our increasing ability to undertake technology assessment and measure the quality and outcomes of health services, the likelihood that a requested new health facility, service, or equipment will improve health care quality and outcomes must be considered; and

(d) It is generally presumed that the services and facilities currently subject to certificate of need should remain subject to those requirements.

(2) The task force shall, at a minimum, examine and develop recommendations related to the following issues:

(a) The need for a new and regularly updated set of service and facility specific policies that guide certificate of need decisions;

(b) A review of the purpose and goals of the current certificate of need program, including the relationship between the supply of health services and health care outcomes and expenditures in Washington state;

(c) The scope of facilities, services, and capital expenditures that should be subject to certificate of need review, including consideration of the following:

(i) Acquisitions of major medical equipment, meaning a single unit of medical equipment or a single system of components with related functions used to provide medical and other health services;

(ii) Major capital expenditures. Capital expenditures for information technology needed to support electronic health records should be encouraged;

(iii) The offering or development of any new health services, as defined in RCW 70.38.025, that meets any of the following:

(A) The obligation of substantial capital expenditures by or on behalf of a health care facility that is associated with the addition of a health service that was not offered on a regular basis by or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered;

(B) The addition of equipment or services, by transfer of ownership, acquisition by lease, donation, transfer, or acquisition of control, through management agreement or otherwise, that was not offered on a regular basis by or on behalf of the health care facility or the private office of a licensed health care provider regulated under Title 18 RCW or chapter 70.127 RCW within the twelve-month period prior to the time the services would be offered and that for the third fiscal year of operation, including a partial first year following acquisition of that equipment or service, is projected to entail substantial incremental operating costs or annual gross revenue directly attributable to that health service;

(iv) The scope of health care facilities subject to certificate of need requirements, to include consideration of hospitals, including specialty hospitals, psychiatric hospitals, nursing facilities, kidney disease treatment centers including freestanding hemodialysis facilities, rehabilitation facilities, ambulatory surgical facilities, freestanding emergency rooms or urgent care facilities, home health agencies, hospice agencies and hospice care centers, freestanding radiological service centers, freestanding cardiac catheterization centers, or cancer treatment centers. "Health care facility" includes the office of a private health care practitioner in which surgical procedures are performed;

(d) The criteria for review of certificate of need applications, as currently defined in RCW 70.38.115, with the goal of having criteria that are consistent, clear, technically sound, and reflect state law, including consideration of:

(i) Public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(A) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(B) Whether the project will have a positive impact on the health status indicators of the population to be served;

(C) Whether there is a substantial risk that the project would result in inappropriate increases in service utilization or the cost of health services;

(D) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(E) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project, including whether there is data to indicate that the proposed health services would constitute innovations in high quality health care delivery;

(ii) Impact of the proposed services on the orderly and economic development of health facilities and health resources for the state as demonstrated by:

(A) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(B) The impact of the project on the ability of existing affected providers and facilities to continue to serve uninsured or underinsured residents of the community and meet demands for emergency care;

(C) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(D) The likelihood that more effective, more accessible, or less costly alternative technologies or methods of service delivery may become available;

(e) The timeliness and consistency of certificate of need reviews and decisions, the sufficiency and use of resources available to the department of health to conduct timely reviews, the means by which the department of health projects future need for services, the ability to reflect differences among communities and approaches to providing services, and clarification on the use of the concurrent review process; and

(f) Mechanisms to monitor ongoing compliance with the assumptions made by facilities that have received either a certificate of need or an exemption to a certificate of need, including those related to volume, the provision of charity care, and access to health services to medicaid and medicare beneficiaries as well as underinsured and uninsured members of the community.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void."

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

The amendment 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.

Representatives Cody and Bailey spoke in favor of passage of the bill.

MOTION

On motion of Representative Santos, Representative Schual-Berke was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1688.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1688 and the bill passed the House by the following vote: Yeas - 71, Nays - 25, Absent - 0, Excused - 2.

Voting yea: Representatives Anderson, Appleton, Bailey, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Sells, Simpson, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 71.

Voting nay: Representatives Ahern, Alexander, Armstrong, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Hinkle, Holmquist, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Roach, Schindler, Serben, Shabro, Skinner, Sump and Woods - 25.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1688, having received the necessary constitutional majority, was declared passed.

There being no objection, House Rule 13c was suspended.

HOUSE BILL NO. 1016, By Representatives Campbell, Kirby, Appleton and Simpson

Limiting when the presence of a dog may affect the availability of homeowner's insurance.

The bill was read the second time.

With the consent of the House, amendment (069) was withdrawn.

Representative Roach moved the adoption of amendment (322):

On page 1, line 12, after "16.08.070." insert the following: "An insurer may require that the insured provide:

(1) Written certification from the insured that the dog provides little risk based on the dog's nature and history; and

(2) Written certification that the dog provides little risk based on the dog's nature and history in the form of:

(a) A written statement from a licensed veterinarian who may be familiar with the dog in question; or

(b) A written statement from a licensed dog trainer from a canine obedience school; or

(c) A canine good citizen certificate from the american kennel club."

Representatives Roach and Kirby spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives Campbell, Kirby and Orcutt spoke in favor of passage of the bill.

Representative Serben, Tom and Clements spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1016.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1016 and the bill passed the House by the following vote: Yeas - 71, Nays - 25, Absent - 0, Excused - 2.

Voting yea: Representatives Alexander, Anderson, Appleton, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Roach, Rodne, Santos, Schindler, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Sump, Takko, Upthegrove, Wallace, Walsh, Wood, Woods and Mr. Speaker - 71.

Voting nay: Representatives Ahern, Armstrong, Bailey, Buri, Chandler, Clements, Condotta, Cox, Crouse, Dunn, Ericksen, Haler, Hankins, Hunter, Moeller, Newhouse, Quall, Roberts, Serben, Shabro, Skinner, Strow, Talcott, Tom and Williams - 25.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED HOUSE BILL NO. 1016, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1251, By Representatives Santos, Roach, Kirby, Morrell, Simpson, Hasegawa, P. Sullivan and McIntire

Regulating tax refund anticipation loans.

The bill was read the second time.

Representative Fromhold moved that Substitute House Bill No. 1251 be substituted for House Bill No. 1251 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1251 was read the second time.

With the consent of the House, amendment (140) was withdrawn.

Representative Santos moved the adoption of amendment (321):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This chapter may be known and cited as the tax refund anticipation loan act.

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

(1) "Borrower" means a taxpayer who receives the proceeds of a refund anticipation loan.

(2) "Department" means the department of financial institutions.

(3) "Director" means the director of the department of financial institutions.

(4) "Facilitator" means a person who receives or accepts for delivery an application for a refund anticipation loan, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan. "Facilitator" does not include a bank, thrift, savings association, industrial bank, or credit union operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(5) "Lender" means a person who extends credit to a borrower in the form of a refund anticipation loan.

(6) "Person" means an individual, a firm, a partnership, an association, a corporation, or other entity.

(7) "Refund anticipation loan" means a loan borrowed by a taxpayer from a lender based on the taxpayer's anticipated federal income tax refund.

(8) "Refund anticipation loan fee" means the charges, fees, or other consideration imposed by the lender for a refund anticipation loan. This term does not include any charge, fee, or other consideration usually imposed by the facilitator in the ordinary course of business for nonloan services, such as fees for tax return preparation and fees for electronic filing of tax returns.

(9) "Refund anticipation loan fee schedule" means a listing or table of refund anticipation loan fees charged by the facilitator or the lender for three or more representative refund anticipation loan amounts. The schedule shall list separately each fee or charge imposed, as well as a total of all fees imposed, related to the making of refund anticipation loans. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal truth in lending act, 15 U.S.C. Sec. 1601 et seq.

(10) "Taxpayer" means an individual who files a federal income tax return.

NEW SECTION. **Sec. 3.** (1) No person may individually, or in conjunction or cooperation with another person, solicit the execution of, process, receive, or accept an application or agreement for, a refund anticipation loan without first being licensed with the director as a facilitator.

(2) This section does not apply to a person doing business as a bank, thrift, industrial bank, savings and loan association, or credit union, under the laws of the United States or any state.

(3) This chapter shall preempt and be exclusive of all local acts, statutes, ordinances, and regulations relating to refund anticipation loans. This subsection shall be given retroactive and prospective effect.

NEW SECTION. **Sec. 4.** (1) An application to become licensed as a facilitator must be in writing, under oath, and in a form prescribed by the director. The application must contain all information prescribed by the director and must include any licenses that a state or federal entity has issued to the applicant. Each application for a license must be accompanied by a two hundred fifty dollar initial licensing fee for each office where the facilitator intends to facilitate refund anticipation loans.

(2) Prior to issuing a license, the director must review the responsibility and general fitness of the applicant. The director may adopt rules establishing criteria to implement this subsection.

(3) Unless the director denies the application, the director shall license the applicant upon the filing of a completed application for a license. The director shall issue and transmit to the applicant a license. If the director denies the application, the director shall notify the applicant of the reasons for the denial within forty-five days of the receipt of the application.

(4) Upon receipt of a license, the applicant is licensed under this chapter and may engage in the business of facilitating refund anticipation loans at the offices identified on the application for the license.

(5) In addition to any requirements for a license set forth by rule of the director under this chapter, the director shall consider the facilitator's status as a tax preparer when determining whether to grant, renew, or revoke a facilitator's license.

NEW SECTION. **Sec. 5.** (1) Each license for a facilitator of refund anticipation loans expires on June 30th following the date it was issued. Before the license expires, the facilitator may renew the license by filing with the director an application for renewal in the form and containing all information prescribed by the director. Each application for renewal of a license must be accompanied by a one hundred dollar renewal fee for each office where the facilitator intends to facilitate refund anticipation loans during the succeeding year.

(2) Upon the filing of an application for renewal of a license, the director may renew the license. Prior to renewal, the director must review the fitness and general responsibility of the facilitator. If the

director does not renew the license, the director shall notify the facilitator, stating the reasons for the denial. The director may adopt rules establishing criteria to implement this subsection.

(3) The director shall establish rules defining the time frame in which the application required under this section must be filed, and the time frame in which the department must process and notify the applicant of the department's decision regarding the application.

NEW SECTION. **Sec. 6.** (1) For all refund anticipation loans, a facilitator must provide a clear disclosure statement to the borrower, prior to the borrower's completion of the application. The disclosure statement required under this subsection must be printed in a minimum of ten-point type. Further, the disclosure statement must contain the following:

(a) The refund anticipation loan fee schedule; and

(b) A written statement containing the following elements:

(i) That a refund anticipation loan is a loan, and is not the borrower's actual income tax refund;

(ii) That the taxpayer can file an income tax return electronically without applying for a refund anticipation loan;

(iii) The average times according to the internal revenue service within which a taxpayer who does not obtain a refund anticipation loan can expect to receive a refund if the taxpayer's return is (A) filed electronically and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer, and (B) mailed to the internal revenue service and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer;

(iv) That the internal revenue service does not guarantee that it will pay the full amount of the anticipated refund and it does not guarantee a specific date that a refund will be deposited into a taxpayer's financial institution account or mailed to a taxpayer;

(v) That the borrower is responsible for repayment of the loan and related fees in the event that the tax refund is not paid or paid in full;

(vi) The estimated time within which the loan proceeds will be paid to the borrower if the loan is approved; and

(vii) The fee that will be charged, if any, if the borrower's loan is not approved.

(2) The following additional information must be provided to the borrower of a refund anticipation loan before consummation of the loan transaction:

(a) The estimated total fees for obtaining the refund anticipation loan; and

(b) The estimated annual percentage rate for the borrower's refund anticipation loan, using the guidelines established under the federal truth in lending act (15 U.S.C. Sec. 1601 et seq.).

NEW SECTION. **Sec. 7.** A borrower may rescind a loan, on or before the close of business on the next day of business at the location where the loan was originated, by returning the principal in cash or the original check disbursed by the facilitator to fund the refund anticipation loan. The facilitator may not charge the borrower for rescinding the loan and shall return to the borrower any postdated check taken as security for the loan or any electronic equivalent. The facilitator shall conspicuously disclose to the borrower this right of rescission in writing in the disclosure statement required under section 6(1) of this act.

NEW SECTION. **Sec. 8.** It is unlawful for a facilitator of a refund anticipation loan to engage in any of the following activities:

(1) Misrepresent a material factor or condition of a refund anticipation loan;

(2) Fail to process the application for a refund anticipation loan promptly after the consumer applies for the loan;

(3) Engage in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with a refund anticipation loan;

(4) Arrange for a creditor to take a security interest in any property of the consumer other than the proceeds of the consumer's tax refund to secure payment of the loan;

(5) Impose charges, fees, or other consideration for a refund anticipation loan. This does not preclude any charge, fee, or other consideration usually imposed by the facilitator in the ordinary course of business for nonloan services, such as fees for tax return preparation and fees for electronic filing of tax returns;

(6) Offer a refund anticipation loan that exceeds the amount of the anticipated tax refund less fees;

(7) Act as a facilitator unless they are authorized as an electronic return originator by the internal revenue service at the time; and

(8) Arrange for a refund anticipation loan unless the facilitator is a tax preparer or works for a person that engages in the business of tax preparation.

NEW SECTION. **Sec. 9.** Any person who knowingly and willfully violates this chapter is guilty of a misdemeanor and shall be fined up to five hundred dollars for each offense.

NEW SECTION. **Sec. 10.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec. 11.** The director may adopt rules to implement sections 4 and 5 of this act.

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

Representative Serben moved the adoption of amendment (333) to amendment (321):

Beginning on page 5, line 23, strike all of subsection (5).

Renumber remaining subsections consecutively and correct any internal references accordingly.

Representative Serben spoke in favor of the adoption of the amendment to the amendment

Representative Kirby spoke against the adoption of the amendment to the amendment

The amendment to the amendment was not adopted.

The question before the House was the adoption of amendment (321).

The amendment 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.

Representative Santos spoke in favor of passage of the bill.

Representative Roach spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1251.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1251 and the bill passed the House by the following vote: Yeas - 59, Nays - 37, Absent - 0, Excused - 2.

Voting yea: Representatives Anderson, Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Rodne, Santos, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 59.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 37.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1251, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1031, By Representatives Conway, Cody, Simpson, Wood, Green, McIntire, Morrell, Kenney, P. Sullivan and Darneille; by request of Governor Locke

Providing long-term funding for problem gambling.

The bill was read the second time.

Representative McIntire moved that Substitute House Bill No. 1031 be substituted for House Bill No. 1031 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1031 was read the second time.

With the consent of the House, amendment (213) was withdrawn.

Representative Condotta moved the adoption of amendment (178):

On page 3, at the beginning of line 18, insert "(1)"

On page 3, line 21, after "43.20A.890." insert "However, the office of financial management may not, except as provided in subsection (2) of this section, approve allotments of appropriations from the account unless, at the time the allotment is approved, contributions from federally recognized Indian tribes have been deposited after January 1, 2005, in the account in an amount at least equal to the money deposited in the account under sections 4 through 6 of this act.

(2) If, by June 30, 2006, contributions from federally recognized Indian tribes deposited after January 1, 2005, in the problem gambling account are less than the money deposited in the account under sections 4 through 6 of this act, or if, by any subsequent June 30th, such contributions from such Indian tribes during the fiscal year beginning on the previous July 1st are less than the money deposited in the account during that fiscal year under sections 4 through 6 of this act, all the funds accumulated in the account may be appropriated and spent for the purposes of the program established under RCW 43.20A.890."

On page 4, after line 28, insert the following:

"(c) If, by June 30, 2006, contributions from federally recognized Indian tribes deposited after January 1, 2005, in the problem gambling account created in section 3 of this act are less than the money deposited in the account under sections 4 through 6 of this act, or if, by any subsequent June 30th, such contributions from such Indian tribes during the fiscal year beginning on the previous July 1st are less than the money deposited in the account during that fiscal year under sections 4 through 6 of this act, this subsection (3) expires on the July 1st next following that June 30th."

On page 5, line 3, after "(2)" insert "(a)"

On page 5, after line 10, insert the following:

"(b) If, by June 30, 2006, contributions from federally recognized Indian tribes deposited after January 1, 2005, in the problem gambling account created in section 3 of this act are less than the money deposited in the account under sections 4 through 6 of this act, or if, by any subsequent June 30th, such contributions from such Indian tribes during the fiscal year beginning on the previous July 1st are less than the money deposited in the account during that fiscal year under sections 4 through 6 of this act, this subsection (2) expires on the July 1st next following that June 30th."

On page 6, after line 9, insert the following:

"(5) If, by June 30, 2006, contributions from federally recognized Indian tribes deposited after January 1, 2005, in the problem gambling account created in section 3 of this act are less than the money deposited in the account under sections 4 through 6 of this act, or if, by any subsequent June 30th, such contributions from such Indian tribes during the fiscal year beginning on the

previous July 1st are less than the money deposited in the account during that fiscal year under sections 4 through 6 of this act, this section expires on the July 1st next following that June 30th."

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

Representative Conway spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Hunter moved the adoption of amendment (219):

On page 3, line 22, strike all of section 4 and insert the following:

"Sec. 4. RCW 67.70.240 and 2001 c 3 s 4 (Initiative Measure No. 728, approved November 7, 2000) are each amended to read as follows:

The moneys in the state lottery account shall be used only:

(1) For the payment of prizes to the holders of winning lottery tickets or shares;

(2) For purposes of making deposits into the reserve account created by RCW 67.70.250 and into the lottery administrative account created by RCW 67.70.260;

(3) For purposes of making deposits into the education construction fund and student achievement fund created in RCW 43.135.045. For the transition period from July 1, 2001, until and including June 30, 2002, fifty percent of the moneys not otherwise obligated under this section shall be placed in the student achievement fund and fifty percent of these moneys shall be placed in the education construction fund. On and after July 1, 2002, until June 30, 2004, seventy-five percent of these moneys shall be placed in the student achievement fund and twenty-five percent shall be placed in the education construction fund. On and after July 1, 2004, all deposits not otherwise obligated under this section shall be placed in the education construction fund. Moneys in the state lottery account deposited in the education construction fund and the student achievement fund are included in "general state revenues" under RCW 39.42.070;

(4)(a) For distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs((.)), and in fiscal year 2006 and thereafter, for the purposes of making deposits to the problem gambling account created in section 3 of this act. Three million dollars shall be ((~~distributed~~))allocated for distribution under this subsection during calendar year 1996. During subsequent years, such ((~~distributions~~)) allocations shall equal the prior year's ((~~distributions~~)) allocation increased by four percent. The amount allocated following the cessation of distributions under (b) of this subsection (4) shall be the amount of deposit determined in (c) of this subsection (4);

(b) Distributions to the county specified in (a) of this subsection (4) shall be made from the amount allocated under (a) of this subsection (4) after first making the deposit under (c) of this subsection (4). Distributions under this subsection (b) shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed;

(c) Except as provided in (d) of this subsection (4), in fiscal year 2006 and thereafter a portion of the moneys allocated in (a) of this subsection (4) shall be deposited to the problem gambling account created in section 3 of this act. The amount for deposit is equal to the percentage of net receipts specified in this subsection. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenues received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners. In fiscal year 2006, the percentage is one-tenth of one percent. In fiscal year 2007 and subsequent years, the percentage is thirteen one-hundredths of one percent;

(d) Moneys from the amounts allocated in(a) of this subsection (4) may not be deposited to the problem gambling account in any fiscal year in which moneys dedicated to the debt service of a baseball stadium, as defined in RCW 82.14.0485, are insufficient to pay the debt service;

(5) For distribution to the stadium and exhibition center account, created in RCW 43.99N.060. Subject to the conditions of RCW 43.99N.070, six million dollars shall be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution shall equal the prior year's distributions increased by four percent. No distribution may be made under this subsection after December 31, 1999, unless the conditions for issuance of the bonds under RCW 43.99N.020(2) are met. Distributions under this subsection shall cease when the bonds are retired, but not later than December 31, 2020;

(6) For the purchase and promotion of lottery games and game-related services; and

(7) For the payment of agent compensation.

The office of financial management shall require the allotment of all expenses paid from the account and shall report to the ways and means committees of the senate and house of representatives any changes in the allotments."

Correct the title and internal references as necessary.

Representatives Hunter and Condotta spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Ericksen moved the adoption of amendment (184):

On page 5, beginning on line 3, strike all material through "act." on line 10 and insert the following:

"(2) Of the tax imposed on persons subject to tax in subsection (1) of this section, an amount equal to 0.13 percent of the tax shall be deposited in the problem gambling account created in section 3 of this act."

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

Representative Conway spoke against the adoption of the amendment.

The amendment was not 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.

Representatives Conway and Hunter spoke in favor of passage of the bill.

Representative Condotta spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1031.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1031 and the bill passed the House by the following vote: Yeas - 57, Nays - 39, Absent - 0, Excused - 2.

Voting yea: Representatives Appleton, Blake, Buri, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Sells, Simpson, Springer, B. Sullivan, P. Sullivan, Takko, Upthegrove, Williams, Wood and Mr. Speaker - 57.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Nixon, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Sommers, Strow, Sump, Talcott, Tom, Wallace, Walsh and Woods - 39.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1419, By Representatives Kirby, Roach, Santos, Newhouse and Williams

Reserving state authority to regulate customer financial transactions.

The bill was read the second time.

Representative Kirby moved that Substitute House Bill No. 1419 be substituted for House Bill No. 1419 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1419 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 Kirby and Roach spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1419.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1419 and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Curtis and Schual-Berke - 2.

SUBSTITUTE HOUSE BILL NO. 1419, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1917, By Representatives Conway, Wood and Chase

Improving stability in industrial insurance premium rates.

The bill was read the second time.

Representative Condotta moved the adoption of amendment (179):

On page 1, line 14, after "~~regulations~~))" strike all material through "Governing" on line 15, and insert "governing"

On page 2, beginning on line 3, after "designate" strike all material through "(((~~(2)~~))) (3))" on line 24 and insert the following:

"

(3)(a) After the first report is issued by the state auditor under section 1, chapter ...(Substitute House Bill No. 1856 or Substitute Senate Bill 5614), Laws of 2005, the workers' compensation advisory committee shall review the report and, as the committee deems appropriate, may make recommendations to the department concerning:

(i) The level or levels of a contingency reserve that are appropriate to maintain actuarial solvency of the accident and medical aid funds, limit premium rate fluctuations, and account for economic conditions; and

(ii) When surplus funds exist in the trust funds, the circumstances under which the department should give premium dividends, or similar measures, or temporarily reduce rates below the rates fixed under subsection (1) of this section, including any recommendations regarding notifications that should be given before taking the action.

(b) Following subsequent reports issued by the state auditor under section 1, chapter ...(Substitute House Bill No. 1856 or Substitute Senate Bill 5614), Laws of 2005, the workers' compensation advisory committee may, as it deems appropriate, update its recommendations to the department on the matters covered under (a) of this subsection.

(((~~(2)~~))) (4)"

On page 2, line 30, after "January 1," strike "2006" and insert "2008"

Representatives Condotta and Conway spoke in favor of the adoption of the amendment.

The amendment 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.

Representatives Conway and Condotta spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1917.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1917 and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Curtis, and Schual-Berke - 2.

ENGROSSED HOUSE BILL NO. 1917, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1291, By Representatives Cody, Bailey, Morrell, Hinkle, Green, Moeller, Kessler, Haigh, Linville, Kagi, Santos and Ormsby

Improving patient safety practices.

The bill was read the second time.

Representative Fromhold moved that Second Substitute House Bill No. 1291 be substituted for House Bill No. 1291 and the second substitute bill be placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1291 was read the second time.

Representative Cody moved the adoption of amendment (337):

On page 2, line 10, strike "PART I: FUNDING PATIENT SAFETY EFFORTS"

Correct the section numbers appropriately.

On page 6, beginning on line 12, strike all material through "law." on page 14, line 3

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

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

The amendment 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.

Representatives Cody and Bailey spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1291.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1291 and the bill passed the House by the following vote: Yeas - 84, Nays - 12, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 84.

Voting nay: Representatives Clements, Cox, Crouse, Dunn, Hinkle, Jarrett, Kretz, Newhouse, Nixon, Schindler, Sump and Tom - 12.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1291, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 1631, By Representatives Clibborn, Fromhold, Moeller, Wallace and Jarrett

Using revenues under the county conservation futures levy.

The bill was read the second time.

Representative McIntire moved that Substitute House Bill No. 1631 be substituted for House Bill No. 1631 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1631 was read the second time.

Representative Clibborn moved the adoption of amendment (234):

On page 1, line 18, after "section" insert "after the effective date of this section"

Representatives Clibborn and Schindler spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Clibborn moved the adoption of amendment (273):

On page 2, after line 26, insert

"**Sec 3.** RCW 84.52.010 and 2004 c 129 s 21 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 84.52.135, 36.54.130, 84.52.069, 84.34.230, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, and 84.52.105, 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) If the consolidated tax levy rate exceeds these limitations, any portion of the levy imposed under RCW 84.34.230 that is in excess of six and one-quarter cents per thousand dollars of assessed valuation shall be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated prior to any other levy authorized under section 1 of this act;

(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 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;

(((~~(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 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;

(((~~(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 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;

(((~~(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, 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

(((~~(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 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 regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) and fire protection districts under RCW 52.16.140 and 52.16.160 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 regional fire protection service authorities under RCW 52.26.140(1)(a), fire protection districts under RCW 52.16.130, 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."

Representatives Clibborn and Schindler spoke in favor of the adoption of the amendment.

The amendment was adopted.

Representative Schindler moved the adoption of amendment (230):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.34.230 and 1995 c 318 s 8 are each amended to read as follows:

For the purpose of acquiring conservation futures ((~~as well as~~)) and other rights and interests in real property pursuant to RCW 84.34.210 and 84.34.220, and for maintaining and operating any property acquired, a county may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the county. The limitations in RCW 84.52.043 shall not apply to the tax levy authorized in this section. Any rights or interests in real property acquired under this section must be located within the assessing county.

Sec. 2. RCW 84.34.240 and 1971 ex.s. c 243 s 5 are each amended to read as follows:

(1) Any board of county commissioners may establish by resolution a special fund which may be termed a conservation futures fund to which it may credit all taxes levied pursuant to RCW 84.34.230. Amounts placed in this fund ((~~may~~)) shall be used ((~~solely~~)) for the purpose of acquiring rights and interests in real property pursuant to the terms of RCW 84.34.210 and 84.34.220, and for the maintenance and operation of any property acquired. The amount of revenue used for maintenance and operations of parks and recreational facilities may not exceed twenty-five percent of the total amount collected from the tax levied under RCW 84.34.230 in the preceding calendar year. Revenues from this tax may not be used to supplant existing maintenance and operation funding. Any rights or interests in real property acquired under this section must be located within the assessing county.

(2) In counties greater than one hundred thousand in population, the board of county commissioners or county legislative authority shall develop a process to help ensure distribution of the tax levied under RCW 84.34.230, over time, throughout the county.

(3) Nothing in this section shall be construed as limiting in any manner methods and funds otherwise available to a county for financing the acquisition of such rights and interests in real property."

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

Representative Clibborn spoke against the adoption of the amendment.

The amendment was not 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.

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

Representatives Schindler, Shabro, Ahern, Orcutt and Dunn spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1631.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1631 and the bill passed the House by the following vote: Yeas - 55, Nays - 41, Absent - 0, Excused - 2.

Voting yea: Representatives Appleton, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, B. Sullivan, P. Sullivan, Takko, Tom, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 55.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Kretz, Kristiansen, McCune, McDonald, Morrell, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Walsh and Woods - 41.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1631, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2157, By Representatives Murray, Simpson, B. Sullivan, Dickerson, Sells, Ericks, McIntire and Conway

Authorizing the creation of a regional transportation improvement authority.

The bill was read the second time.

Representative Murray moved that Substitute House Bill No. 2157 be substituted for House Bill No. 2157 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2157 was read the second time.

With the consent of the House, amendment (298) was withdrawn.

Representative Woods moved the adoption of amendment (324):

Strike everything after the enacting clause and insert the following:

"**PART I**
IMPLEMENTING REGIONAL TRANSPORTATION INVESTMENT PLANS

NEW SECTION. **Sec. 101.** FINDINGS. The legislature finds that:

(1) The capacity of many of Washington state's transportation facilities have failed to keep up with the state's growth, particularly in major urban regions;

(2) The state cannot by itself fund, in a timely way, many of the major capacity and other improvements required on highways of statewide significance in the state's largest urbanized area;

(3) Providing a transportation system that provides efficient mobility for persons and freight requires a shared partnership and responsibility between the state, local, and regional governments and the private sector;

(4) Timely and strategic construction and development of significant transportation improvement projects can best be achieved through enhanced funding options for the state and regional and county governments, using already existing tax authority together with innovative funding approaches to address critical transportation needs and to provide authority for the state, regions, and counties to address transportation projects of regional and statewide significance;

(5) Improved mobility also requires that we maximize the efficiency of the current transportation system and that expansion of our system be done in a strategic manner and as dictated by market forces and that a plan that provides flexibility for investments and operational enhancements financed largely without debt will best address these needs; and

(6) The development of transportation improvements will require both state, and regional and local efforts. This chapter is intended to enhance this partnership, and not to replace the need for resources to be provided by the state.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Corridor equity" means the relative performance of transportation corridors within the regional transportation improvement authority's boundaries. For performance to be equitable, the performance of any corridor must be similar to other corridors within the authority, and cannot be disproportionately degraded by transportation improvement projects.

(2) "High-priority project" means the restoration, reconstruction, or improvement of a transportation facility of statewide or regional significance that has failed or is an identified risk for failure in terms of its design life expectancy or other factors.

(3) "Lead agency" means a public agency designated by an authority to plan, design, build, and operate a project.

(4) "Optimizing transportation system performance" or "optimizing performance" means the systematic management and improvement of transportation facilities, including service enhancements, the objective of which is meeting the diverse mobility needs of users of the transportation system.

(5) "Transportation improvement projects" or "projects" means projects contained in the transportation plan of the state or a regional transportation planning organization that are of statewide or regional significance. Projects may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high-capacity transportation, public transportation, and

other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

(6) "Regional transportation improvement authority" or "authority" means a municipal corporation whose boundaries are coextensive, to the extent deemed appropriate by the authority, with the urban growth boundaries of two or more contiguous counties, or an authority whose boundaries are contiguous with the boundaries of a single county, and that has been created by county legislative authorities by adoption of ordinances, or in the case of a single-county authority, a county legislative authority and a vote of the people under this chapter to implement a transportation improvement plan.

(7) "Regional transportation improvement authority board" or "board" means the board created under section 104 of this act to adopt and propose to county legislative authorities a regional transportation improvement plan to develop, finance, and construct transportation projects.

(8) "Regional transportation improvement plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(9) "Regional transportation planning organization" means that organization as defined in chapter 47.80 RCW.

NEW SECTION. **Sec. 103.** RTPO PLANNING DUTIES. (1) A county or group of counties choosing to implement a plan under this chapter shall request that a regional transportation planning organization, of which it or they are a member, develop a recommended prioritized list of projects to be included in a regional transportation improvement plan. The organization must adopt the prioritized list of projects within ninety days of the request and submit it to the requesting county or counties.

(2) In developing a prioritized list of projects for the plan the organization shall:

(a) Consider regional transportation needs, including high-priority transportation projects;

(b) Provide for improvements in safety and mobility based on addressing transportation improvement projects;

(c) Recommend the appropriate mix of transportation investment choices to address the mobility needs of the region, based on the criteria set forth in section 105(4) of this act;

(d) Address geographic and corridor equity and land use planning;

(e) Coordinate its activities with the department of transportation, which shall provide services, data, and personnel to assist in this planning as desired by the organization; and

(f) Coordinate with local government entities within the boundaries of the requesting county or group of counties that engage in transportation planning and providing transportation services.

NEW SECTION. **Sec. 104.** AUTHORITY FORMATION. (1) A county with a population over one million five hundred thousand persons together with any adjoining counties with a population over five hundred thousand persons may create, by adoption of an ordinance of the county legislative authorities, a regional transportation improvement authority.

(a) The boundaries of the authority must be, to the extent deemed appropriate, the area within the urban growth areas within each county.

After voters within the authority boundaries have approved a plan under section 107 of this act, elections to add areas to the authority boundaries may be called by the resolution of the authority, after consultation with the regional transportation planning organization and affected transit agencies and with the concurrence of the legislative authority of the city or town if the area is incorporated or with the concurrence of the county legislative authority if the area is unincorporated. The election may include a single ballot measure providing annexation to the authority, approval of the plan, and approval of revenue sources necessary to finance the plan. This option for annexation applies to areas within the counties initially establishing an authority and also to areas within a county having a population over two hundred thirty thousand persons and whose boundaries abut three counties eligible to form an authority under this subsection.

(b) The governing board consists of the members of the county legislative authorities whose districts are wholly or partially within the authority boundaries and the county executive of each county within the authority, with all members acting ex officio and independently. Councilmembers have weighted votes based on the population of their council districts within the authority boundaries relative to the total population of the authority. The executive of each county has a weighted vote equivalent to the vote of the councilmember from the same county of the executive, having the most heavily weighted vote. A representative from the city having the greatest population in each county and any other city within the authority that has a population greater than one hundred ten thousand persons are nonvoting members of the board. The executive of any county with a population over one million five hundred thousand persons shall also designate a city, with a population over fifty thousand persons, whose representative shall serve as a nonvoting member of the board and who shall represent the geographic diversity of the county. The secretary of transportation, or the appropriate regional administrator of the department, as named by the secretary, shall serve on the authority as a nonvoting member.

(2) A county with a population over one million five hundred thousand persons or a county having a population over five hundred thousand persons adjoining a county with a population over one million five hundred thousand persons, and a county having a population over two hundred thirty thousand persons and whose boundaries abut three counties eligible to form an authority under this chapter, may create, by adoption of an ordinance of the county legislative authority, a regional transportation improvement authority.

(a) The boundaries of the authority must be contiguous with the boundaries of the county.

(b) The governing board consists of the members of the county legislative authority with all members acting ex officio and independently. The secretary of transportation, or the appropriate regional administrator of the department, as named by the secretary, shall serve on the authority as a nonvoting member.

(3) The members of the authority under this chapter will receive no compensation for serving on the board, but may be reimbursed for travel and incidental expenses as the authority deems appropriate.

(4) A regional transportation improvement authority may be entitled to state funding, as appropriated by the legislature, for start-up funding to pay for expenses incurred by the authority and through contracts with the regional transportation planning organization in selecting transportation projects under this chapter. Upon voter approval of a regional transportation improvement authority plan and revenue sources under section 106 of this act, the authority shall within one year reimburse the state for any sums advanced for these start-up costs from the state.

(5) The board shall conduct its affairs and formulate, with assistance from the appropriate regional transportation planning

organization, a regional transportation improvement plan as provided under section 105 of this act.

(6) A regional transportation improvement authority may elect officers and provide for the adoption of rules and other operating procedures.

(7) Governance of and decisions by a regional transportation improvement authority must be by a sixty percent weighted majority vote of the board membership.

(8) The authority may dissolve itself at any time by a two-thirds weighted majority vote of the board membership.

NEW SECTION. **Sec. 105.** AUTHORITY DUTIES. (1) A regional transportation improvement authority board shall adopt a regional transportation improvement plan providing for the development, construction, and financing of transportation projects. The board shall use the prioritized list of projects provided to it by the regional transportation planning organization under section 103 of this act. In collaboration with the regional transportation planning organization, it may modify the list of projects to better meet the criteria defined in subsection (4) of this section.

(2) The board may coordinate its activities with the regional transportation planning organization, which shall provide services, data, and personnel to assist in this planning as requested by the board. In addition, the board may coordinate with the department of transportation and affected cities, towns, and other local governments that engage in transportation planning.

(3) The board shall:

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

(b) Adopt a plan as described in subsection (1) of this section:

(i) Ratifying the creation of the regional transportation improvement authority;

(ii) Identifying transportation improvement projects to be funded;

(iii) Recommending sources of revenue authorized by section 106 of this act and a financing plan to fund the transportation projects in the plan. The overall plan of the authority must leverage the authority's financial contributions so that in combination with federal, state, local, and other revenue sources, the plan is funded. The plan may include provisions for delaying the imposition of regional taxes and fees, or delay of projects identified in the plan, pending the financial participation of other parties or alternative financing techniques necessary to accomplish the plan. The plan must include provisions for adjusting the plan as needed to improve operations of the transportation network in the region.

(4) The authority shall develop a plan including policies for investment, operations, and the performance of the regional transportation network using the following criteria for selecting transportation improvement projects to improve transportation system performance:

(a) Reduced risk of transportation facility failure and improved safety;

(b) Improved travel time;

(c) Improved air quality;

(d) Increases in daily and peak period trip capacity;

(e) Improved modal connectivity;

(f) Improved freight mobility;

(g) Cost-effectiveness of the investment;

(h) Optimal performance of the system through time; and

(i) Other criteria, as adopted by the board with a sixty-percent majority of weighted votes.

(5) Before adopting the plan, the authority, with assistance from the department and other lead agencies, shall work with the lead agency to develop accurate cost estimates for transportation projects. This project costing methodology must be integrated with revenue forecasts in developing the financial plan and must at a minimum include estimated project costs in current dollars as well as year of expenditure dollars, the range of project costs reflected by the level of project design, project contingencies, identification of mitigation costs, the range of revenue forecasts, and project and plan cash flow and bond analysis. The plan must provide cost estimates for each project, including contingency costs. Plans must provide that the maximum amount possible of the funds raised will be used to fund projects in the plan, including environmental improvements and mitigation, and that administrative costs be minimized. If actual revenue exceeds actual plan costs, the excess revenues must be used to retire any outstanding debt associated with the plan.

(6) The authority shall transmit the plan to the county legislative authority or authorities, which shall act within ninety days to adopt or not adopt the plan. In the case of a multicounty authority, if a county by ordinance with its county legislative authority opts not to adopt the plan or participate in the regional transportation improvement authority, but one or more contiguous counties do choose to continue to participate, then the authority may, within ninety days, redefine the regional transportation improvement plan and the ballot measure to be submitted to the people to reflect elimination of the county, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to adopt the redefined plan and participate. This action must be completed within sixty days after receipt of the redefined plan.

(7) Once adopted, the plan must be forwarded to the participating county legislative authorities or authority to initiate, through adoption of an ordinance, the election process under section 107 of this act. The authority shall at the same time provide notice to each city and town within the authority, the governor, the chairs and ranking members of the transportation committees of the legislature, the secretary of transportation, and each legislator whose legislative district is partially or wholly within the boundaries of the authority.

(8) If the ballot measure is not approved, the board may redefine the selected transportation projects, financing plan, and the ballot measure as determined by the county legislative authority or authorities. The county legislative authorities or authority may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at the next election or a special election.

NEW SECTION. **Sec. 106.** TAXES, FEES, AND TOLLS. (1) A regional transportation improvement authority planning committee may, as part of a regional transportation improvement plan, recommend the imposition of some or all of the following revenue sources, which a regional transportation improvement authority may impose as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to 0.2 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, upon the occurrence of any taxable event in the regional transportation improvement authority. This tax is intended to be temporary in nature to supplement authority revenues until implementation of some or all of the network value pricing system authorized in this section. This tax may not be imposed without an affirmative vote of the majority of the voters within the boundaries of the authority voting on a ballot proposition and may not authorize imposition of this tax for a period

of longer than ten years. This tax may be extended for a period not exceeding ten years with an affirmative vote of the voters.

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the authority. As used in this subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A local motor vehicle excise tax under RCW 81.100.060; and

(d) A value pricing assessment of charges for users of transportation facilities as set forth in section 314 of this act and meeting the following conditions:

(i) With the approval of the transportation commission, or its successor, vehicle tolls may be imposed on a local or regional arterial or state or federal highway within the boundaries of the authority.

(ii) The plan must identify the facilities that may be tolled.

(iii) Unless otherwise specified by law or contract, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority.

(2) Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. Taxes, fees, and the authority to impose tolls may not be imposed without an affirmative vote of the majority of voters within the boundaries of the authority voting on a ballot proposition as set forth in section 107 of this act. An authority may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section. In authorizing these revenue sources, it is the intent of the legislature to provide a range of options that can be tailored to meet the transportation financing needs and to improve operating efficiency of transportation facilities.

NEW SECTION. **Sec. 107.** PLAN ADOPTION. Two or more contiguous county legislative authorities under section 104(1) of this act and a county or county legislative authorities under section 104(2) of this act, upon receipt of the regional transportation improvement plan under section 105 of this act, may, by adoption of an ordinance, submit to the voters of the proposed authority a single ballot measure that approves the regional transportation improvement plan, and approves the revenue sources necessary to finance the plan. The authority may draft the ballot measure on behalf of the county legislative authorities, and the county legislative authorities may give notice as required by law for ballot measures, and perform other duties as required to submit the measure to the voters of the proposed authority for their approval or rejection. The electorate will be the voters voting within the boundaries of the authority within the participating counties, or in the case of a single county, within the boundary of the county. A simple majority of the total persons voting on the single ballot measure is required for approval of the measure.

NEW SECTION. **Sec. 108.** FORMATION--CERTIFICATION. If the voters approve the plan, including imposition of taxes and fees, the authority will be declared fully operative. The county election officials of participating counties shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the authority declaring the authority formed, and mail copies of the notice to the governor, the secretary of transportation, and the executive director of the regional transportation planning organization in which any part of the authority is located. A party challenging the procedure or the formation of a voter-approved authority must file the challenge in writing by serving the prosecuting attorney of the participating counties and the attorney general within thirty days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the authority's valid formation.

NEW SECTION. **Sec. 109.** GOVERNING BOARD--ORGANIZATION. The board shall adopt rules for the conduct of business. The board shall adopt bylaws to govern authority affairs, which may include:

(1) The time and place of regular meetings;

(2) Rules for calling special meetings;

(3) The method of keeping records of proceedings and official acts;

(4) Procedures for the safekeeping and disbursement of funds; and

(5) Any other provisions the board finds necessary to include.

NEW SECTION. **Sec. 110.** GOVERNING BOARD--POWERS AND DUTIES--INTENT. (1) The governing board of the authority is responsible for the execution of the voter-approved plan. The board shall:

(a) Impose taxes and fees authorized by authority voters;

(b) Enter into agreements with state, local, and regional agencies and departments as necessary to accomplish authority purposes and protect the authority's investment in transportation projects;

(c) Accept and expend gifts, grants, or other contributions of funds that will support the purposes and programs of the authority;

(d) Monitor and audit the progress and execution of transportation projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Contract with an existing agency or hire a limited staff to administer and provide oversight of contracts to implement the plan; and

(g) Exercise other powers and duties as may be reasonable to carry out the purposes of the authority.

(2) It is the intent of the legislature that existing staff resources of lead agencies be used in implementing this chapter. An authority may, and in the case of user charges shall, coordinate its activities with the department, which shall provide services, data, and personnel to assist as desired by the regional transportation improvement authority. Lead agencies for transportation projects that are not state facilities shall also provide staff support for the board.

(3) An authority may not acquire, hold, or dispose of real property.

(4) An authority may not own, operate, or maintain an ongoing facility, road, or transportation system.

(5) It is the intent of the legislature that administrative and overhead costs of a regional transportation improvement authority be minimized.

(6) Lead agencies implementing authority projects may use the design-build procedure for transportation projects developed by it. As used in this section, "design-build procedure" means a method of contracting under which the authority contracts with another party for that party to both design and build the structures, facilities, and other items specified in the contract. The requirements and limitations of RCW 47.20.780 and 47.20.785 do not apply to the transportation projects under this chapter.

NEW SECTION. **Sec. 111.** TREASURER. The regional transportation improvement authority, by resolution, shall designate

a person having experience in financial or fiscal matters as treasurer of the authority. The authority may designate the treasurer of a county within which the authority is located to act as its treasurer. Such a treasurer has all of the powers, responsibilities, and duties the county treasurer has related to investing surplus funds. The authority shall require a bond with a surety company authorized to do business in this state in an amount and under the terms and conditions the authority, by resolution, from time to time finds will protect the authority against loss. The authority shall pay the premium on the bond.

In addition to the account established in section 301 of this act, the treasurer may establish a special account, into which may be paid authority funds. The treasurer may disburse authority funds only on warrants issued by the authority upon orders or vouchers approved by the authority.

If the treasurer of the authority is the treasurer of a county, all authority funds must be deposited with a county depositary under the same restrictions, contracts, and security as provided for county depositaries. If the treasurer of the authority is some other person, all funds must be deposited in a bank or banks authorized to do business in this state qualified for insured deposits under any federal deposit insurance act as the authority, by resolution, designates.

The authority may provide and require a reasonable bond of any other person handling moneys or securities of the authority, but the authority shall pay the premium on the bond.

NEW SECTION. **Sec. 112.** INDEBTEDNESS--BONDS--LIMITATION. (1)(a) Notwithstanding RCW 39.36.020(1), the authority may at any time contract indebtedness or borrow money for authority purposes and may issue general obligation bonds or other evidences of indebtedness, secured by the pledge of one or more of the taxes, tolls, charges, or fees authorized to be imposed by the authority, in an amount not exceeding, together with any existing indebtedness of the authority not authorized by the voters, one and one-half percent of the value of the taxable property within the boundaries of the authority.

(b) With the approval of three-fifths of the voters voting at an election, an authority may contract indebtedness or borrow money for authority purposes and may issue general obligation bonds or other evidences of indebtedness as long as the total indebtedness of the authority does not exceed five percent of the value of the taxable property within the authority, including indebtedness authorized under (a) of this subsection. The bonds must be issued and sold in accordance with chapter 39.46 RCW.

(2) The authority may at any time issue revenue bonds or other evidences of indebtedness, secured by the pledge of one or more of the revenues authorized to be collected by the authority, to provide funds to carry out its authorized functions without submitting the matter to the voters of the authority. These obligations must be issued and sold in accordance with chapter 39.46 RCW.

(3) The authority may enter into agreements with the lead agencies or the state of Washington, when authorized by the plan, to pledge taxes or other revenues of the authority for the purpose of paying in part or whole principal and interest on bonds issued by the lead agency or the state of Washington. The agreements pledging revenues and taxes are binding for their terms, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge made in any agreement. The term of the bonds may not exceed twenty-five years.

(4) It is the intent of the legislature that the transportation plan developed by the authority minimize its reliance on bonds and that the authority rely to the extent possible on revenues and charges generated by the network. The issuance of bonds is authorized to address critical transportation expenditures and to better manage the revenues and expenditure commitments of the authority.

(5) Once construction of capital projects in the plan has been completed, revenues collected by the authority may only be used for the following purposes: (a) Payment of principal and interest on outstanding indebtedness of the authority; (b) to make payments required under a pledging agreement; (c) to make payments for maintenance and operations of toll facilities as may be required by toll bond covenants; and (d) to continue other programs as defined in the plan.

NEW SECTION. **Sec. 113.** TRANSPORTATION PROJECT OR PLAN MODIFICATION. (1) The board may modify the plan to change transportation projects or revenue sources in the following manner:

(a) The board adopts a resolution to modify the plan or to newly impose or increase the rate of the motor vehicle excise tax, vehicle license fee, or a sales and use tax authorized under RCW 82.14.430, and the counties submit the issue to the voters in the authority, in the same manner provided for in section 107 of this act; or

(b) The board, with a majority of the weighted votes of the board, redefines the scope of the plan, its projects, its schedule, or its costs.

(2) The board shall continually assess the plan to identify investment and operational changes to improve system performance and annually update the plan.

NEW SECTION. **Sec. 114.** TRANSPORTATION PLAN ACCOUNTABILITY. (1) The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan. The policy must at least address material changes to cost, scope, and schedule, the level of change that will require board involvement, and how the board will address those changes as provided for in this chapter, including when section 113 of this act will be invoked.

(2) To assure accountability to the public for the timely accomplishment of the transportation improvement project or projects within scope and cost projections, the authority shall issue a report, at least annually, to the public and copies of the report to newspapers of record in the authority. In the report, the authority shall indicate the status of transportation project costs, transportation project expenditures, revenues, and construction schedules. The report must also include an explanation of the material change policy and actions taken thereon and may also include progress towards meeting the performance criteria provided under this chapter.

NEW SECTION. **Sec. 115.** OWNERSHIP OF IMPROVEMENTS. Any improvement to a facility constructed, improved, or operated under this chapter becomes and remains the property of the lead agency unless otherwise provided for.

NEW SECTION. **Sec. 116.** DISSOLUTION OF AUTHORITY. Within thirty days of the completion of the construction of the transportation project or series of projects forming the regional transportation improvement plan, the authority shall reduce day-to-day operations and exist solely as a limited entity that oversees the collection of revenue and the payment of debt service or financing still in effect, if any and the payment of ongoing operations of facilities as set forth in the plan. At least one year before the time that capital debt service on transportation projects is completed, the authority shall develop a plan, including a finance plan, for ongoing

project operation, and the plan must be submitted by member counties to the voters in the authority. If there is no debt outstanding and there is no ongoing project operation, then the authority shall dissolve within thirty days from completion of construction of the transportation project or series of transportation projects forming the regional transportation improvement plan. Notice of dissolution must be published in newspapers of general circulation within the authority at least three times in a period of thirty days. Creditors must file claims for payment of claims due within thirty days of the last published notice or the claim is extinguished.

NEW SECTION. **Sec. 117.** WASHINGTON STATE DEPARTMENT OF TRANSPORTATION ROLE. (1) The department shall provide staff and services to assist authorities under this chapter. The primary responsibility of the dedicated staff is to coordinate the design, preliminary engineering, permitting, financing, and construction of projects in which the state has a role and are under consideration by an authority or are contained in the authority's plan.

(2) All of the powers granted the department under Title 47 RCW relating to highway construction may, at the request of an authority participating in a plan, be used to implement a regional transportation improvement plan and construct transportation projects.

NEW SECTION. **Sec. 118.** TOLLING FEASIBILITY STUDY REQUIRED. The transportation commission, with the technical assistance of the department of transportation, shall conduct a study of the state highway system and other transportation facilities in King, Pierce, and Snohomish counties to determine the feasibility of value pricing on a facility, or network of facilities. The purpose of the study is to determine potential for such an approach as a means to generate needed revenues for needed transportation facilities, maximize the efficient operation of facilities and the transportation network, and provide economic indicators for future system investments. The study must take into account congestion levels, facility and corridor capacity, time of use, economic considerations, and other factors deemed appropriate. The study must recommend any additional laws, rules, procedures, resources, studies, reports, or support infrastructure necessary or desirable before proceeding with the review, evaluation, or implementation of any toll projects or a system-wide value pricing transportation structure.

The transportation commission shall complete an initial draft of the study and report back to the legislature by January 15, 2006. The final study must be completed by June 30, 2006, and study recommendations must include proposed legislation needed for implementation of system-wide value pricing.

NEW SECTION. **Sec. 119.** A new section is added to chapter 47.80 RCW to read as follows:

RTPO SUPPORT FOR REGIONAL TRANSPORTATION IMPROVEMENT PLAN. At the request of a county or a group of counties, a regional transportation planning organization shall develop and provide a prioritized list of projects for inclusion in a regional transportation improvement plan, as provided for in section 103 of this act and provide other services for a regional transportation improvement authority as provided for in chapter 36.-- RCW (sections 101 through 117 of this act).

PART II
JOINT BALLOT WITH RTA

NEW SECTION. **Sec. 201.** JOINT BALLOT MEASURE. At the option of the regional transportation improvement authority board, and with the explicit approval of the regional transit authority, the participating counties or, in the case of a single-county authority, the county may choose to impose any remaining high-capacity transportation taxes under chapter 81.104 RCW that have not otherwise been used by a regional transit authority and submit to the voters a common ballot measure that creates the authority, approves the regional transportation improvement plan, implements the taxes, and implements any remaining high-capacity transportation taxes within the boundaries of the regional transportation improvement authority. Collection and expenditures of any high-capacity transportation taxes implemented under this section must be determined by agreement between the participating authority or authorities and the regional transit authority electing to submit high-capacity transportation taxes to the voters under a common ballot measure as provided in this section. If the measure fails, all such unused high-capacity transportation taxes revert back to and remain with the regional transit authority.

Sec. 202. RCW 81.104.140 and 2002 c 56 s 202 are each amended to read as follows:

(1) Agencies authorized to provide high capacity transportation service, including transit agencies and regional transit authorities, and regional transportation ((~~investment districts~~)) improvement authorities acting with the agreement of an agency, are hereby granted dedicated funding sources for such systems. These dedicated funding sources, as set forth in RCW 81.104.150, 81.104.160, and 81.104.170, are authorized only for agencies located in (a) each county with a population of two hundred ten thousand or more and (b) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described under (a) of this subsection. In any county with a population of one million or more or in any county having a population of four hundred thousand or more bordering a county with a population of one million or more, these funding sources may be imposed only by a regional transit authority or a regional transportation ((~~investment district~~)) improvement authority. Regional transportation ((~~investment districts~~)) improvement authorities may, with the approval of the regional transit authority wholly or partly within its boundaries, impose the taxes authorized under this chapter, but only upon approval of the voters and to the extent that the maximum amount of taxes authorized under this chapter have not been imposed.

(2) Agencies planning to construct and operate a high capacity transportation system should also seek other funds, including federal, state, local, and private sector assistance.

(3) Funding sources should satisfy each of the following criteria to the greatest extent possible:

(a) Acceptability;

(b) Ease of administration;

(c) Equity;

(d) Implementation feasibility;

(e) Revenue reliability; and

(f) Revenue yield.

(4) Agencies participating in regional high capacity transportation system development are authorized to levy and collect the following voter-approved local option funding sources:

(a) Employer tax as provided in RCW 81.104.150, other than by regional transportation investment districts; and

(b) ((~~Special motor vehicle excise tax as provided in RCW 81.104.160; and~~

~~(c)~~)) Sales and use tax as provided in RCW 81.104.170.

Revenues from these taxes may be used only to support those purposes prescribed in subsection (10) of this section. Before the date of an election authorizing an agency to impose any of the taxes enumerated in this section and authorized in RCW 81.104.150, 81.104.160, and 81.104.170, the agency must comply with the process prescribed in RCW 81.104.100 (1) and (2) and 81.104.110. No construction on exclusive right of way may occur before the requirements of RCW 81.104.100(3) are met.

(5) Authorization in subsection (4) of this section shall not adversely affect the funding authority of transit agencies not provided for in this chapter. Local option funds may be used to support implementation of interlocal agreements with respect to the establishment of regional high capacity transportation service. Except when a regional transit authority exists, local jurisdictions shall retain control over moneys generated within their boundaries, although funds may be commingled with those generated in other areas for planning, construction, and operation of high capacity transportation systems as set forth in the agreements.

(6) Agencies planning to construct and operate high capacity transportation systems may contract with the state for collection and transference of voter-approved local option revenue.

(7) Dedicated high capacity transportation funding sources authorized in RCW 81.104.150, 81.104.160, and 81.104.170 shall be subject to voter approval by a simple majority. A single ballot proposition may seek approval for one or more of the authorized taxing sources. The ballot title shall reference the document identified in subsection (8) of this section.

(8) Agencies shall provide to the registered voters in the area a document describing the systems plan and the financing plan set forth in RCW 81.104.100. It shall also describe the relationship of the system to regional issues such as development density at station locations and activity centers, and the interrelationship of the system to adopted land use and transportation demand management goals within the region. This document shall be provided to the voters at least twenty days prior to the date of the election.

(9) For any election in which voter approval is sought for a high capacity transportation system plan and financing plan pursuant to RCW 81.104.040, a local voter's pamphlet shall be produced as provided in chapter ((~~29.81A~~)) 29A.32 RCW.

(10) Agencies providing high capacity transportation service shall retain responsibility for revenue encumbrance, disbursement, and bonding. Funds may be used for any purpose relating to planning, construction, and operation of high capacity transportation systems and commuter rail systems, personal rapid transit, busways, bus sets, and entrained and linked buses.

PART III
FINANCE

NEW SECTION. **Sec. 301.** REGIONAL TRANSPORTATION IMPROVEMENT AUTHORITY ACCOUNT. The regional transportation improvement authority account is created in the custody of the state treasurer. The purpose of this account is to act as an account into which may be deposited state money, if any, that may only be used in conjunction with an authority's money to fund transportation projects. Additionally, an authority may deposit funds into this account for disbursement, as appropriate, on transportation projects. Nothing in this section requires any state matching money. All money deposited in the regional transportation improvement authority account will be used for design, right of way acquisition, capital acquisition, construction, and operation, or for the payment of debt service associated with these activities, for regionally funded transportation projects developed under this chapter. Only an authority, or the authority's designee, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

Sec. 302. RCW 81.100.030 and 2002 c 56 s 410 are each amended to read as follows:

EMPLOYER TAX. (1) A county with a population of one million or more, or a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, and having within its boundaries existing or planned high-occupancy vehicle lanes on the state highway system, ((~~or a regional transportation investment district for capital improvements,~~)) but only to the extent that the tax has not already been imposed by the county, may, with voter approval impose an excise tax of up to two dollars per employee per month on all employers or any class or classes of employers, public and private, including the state located in the agency's jurisdiction, measured by the number of full-time equivalent employees. In no event may the total taxes imposed under this section exceed two dollars per employee per month for any single employer. The county ((~~or investment district~~)) imposing the tax authorized in this section may provide for exemptions from the tax to such educational, cultural, health, charitable, or religious organizations as it deems appropriate.

Counties ((~~or investment districts~~)) may contract with the state department of revenue or other appropriate entities for administration and collection of the tax. Such contract shall provide for deduction of an amount for administration and collection expenses.

(2) The tax shall not apply to employment of a person when the employer has paid for at least half of the cost of a transit pass issued by a transit agency for that employee, valid for the period for which the tax would otherwise be owed.

(3) A county ((~~or investment district~~)) shall adopt rules that exempt from all or a portion of the tax any employer that has entered into an agreement with the county ((~~or investment district~~)) that is designed to reduce the proportion of employees who drive in single-occupant vehicles during peak commuting periods in proportion to the degree that the agreement is designed to meet the goals for the employer's location adopted under RCW 81.100.040.

The agreement shall include a list of specific actions that the employer will undertake to be entitled to the exemption. Employers having an exemption from all or part of the tax through this subsection shall annually certify to the county ((~~or investment district~~)) that the employer is fulfilling the terms of the agreement. The exemption continues as long as the employer is in compliance with the agreement.

If the tax authorized in RCW 81.100.060 is also imposed, the total proceeds from both tax sources each year shall not exceed the maximum amount which could be collected under RCW 81.100.060.

Sec. 303. RCW 81.100.060 and 2002 c 56 s 411 are each amended to read as follows:

MVET--COUNTY HOV AND IMPROVEMENT AUTHORITIES. A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high-occupancy vehicle lanes on the state highway system, or a regional transportation ((~~investment district for capital improvements~~)) improvement authority, but only to the extent that

the surcharge has not already been imposed by the county, may, with voter approval, impose a local surcharge of not more than three-tenths of one percent in the case of a county, or six-tenths of one percent in the case of an authority of the value on vehicles registered to a person residing within the county or improvement authority and not more than 13.64 percent on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county or ((~~investment district~~)) improvement authority. A county may impose the surcharge only to the extent that it has not been imposed by the ((~~district~~)) improvement authority. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.085, or 46.16.090.

Counties or ((~~investment districts~~)) improvement authorities imposing a tax under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct an amount, as provided by contract, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to motor vehicle excise taxes, be applicable to surcharges imposed under this section. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section. In administering this section, the department of licensing and the department of revenue shall collaborate to develop a schedule for determining the value of vehicles subject to the tax that reflects the market value of the vehicle. The valuation process must provide for a process for appealing the identified value of the vehicle.

If the tax authorized in RCW 81.100.030 is also imposed, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.

Sec. 304. RCW 81.100.080 and 1990 c 43 s 19 are each amended to read as follows:

MVET--USES. Funds collected under RCW 81.100.030 or 81.100.060 and any investment earnings accruing thereon shall be used by the county or the regional transportation improvement authority in a manner consistent with the regional transportation plan only for costs of collection, costs of preparing, adopting, and enforcing agreements under RCW 81.100.030(3), for construction of high occupancy vehicle lanes and related facilities, mitigation of environmental concerns that result from construction or use of high occupancy vehicle lanes and related facilities, by an improvement authority for projects contained in a plan developed under chapter 36.-- RCW (sections 101 through 117 of this act), payment of principal and interest on bonds issued for the purposes of this section, for high occupancy vehicle programs as defined in RCW 81.100.020(5), and for commuter rail projects in accordance with RCW 81.104.120. Except for funds raised by a regional transportation improvement authority, no funds collected under RCW 81.100.030 or 81.100.060 after June 30, 2000, may be pledged for the payment or security of the principal or interest on any bonds issued for the purposes of this section. Not more than ten percent of the funds may be used for transit agency high occupancy vehicle programs.

Priorities for construction of high occupancy vehicle lanes and related facilities shall be as follows:

(1)(a) To accelerate construction of high occupancy vehicle lanes on the interstate highway system, as well as related facilities;

(b) To finance or accelerate construction of high occupancy vehicle lanes on the noninterstate state highway system, as well as related facilities.

(2) To finance construction of high occupancy vehicle lanes on local arterials, as well as related facilities.

Moneys received by ((~~an agency~~)) a county under this chapter shall be used in addition to, and not as a substitute for, moneys currently used by the agency for the purposes specified in this section.

Counties and regional transportation improvement authorities may contract with cities or the state department of transportation for construction of high occupancy vehicle lanes and related facilities, and may issue general obligation bonds to fund such construction and use funds received under this chapter to pay the principal and interest on such bonds.

Sec. 305. RCW 82.14.430 and 2002 c 56 s 405 are each amended to read as follows:

SALES TAX. (1) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation ((~~investment district~~)) improvement authority may impose a sales and use tax of up to ((~~0.5~~)) 0.2 percent of the selling price or value of the article used in the case of a use tax. The tax authorized by this section is in addition to the tax authorized by RCW 82.14.030 and 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 taxing district. Motor vehicles are exempt from the sales and use tax imposed under this subsection.

(2) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation ((~~investment district~~)) improvement authority may impose a tax on the use of a motor vehicle within a regional transportation ((~~investment district~~)) improvement authority. The tax applies to those persons who reside within the regional transportation ((~~investment district~~)) improvement authority. The rate of the tax may not exceed ((~~0.5~~)) 0.2 percent of the value of the motor vehicle. The tax authorized by this subsection is in addition to the tax authorized under RCW 82.14.030 and must be imposed and collected at the time a taxable event under RCW 82.08.020(1) or 82.12.020 takes place. All revenue received under this subsection must be deposited in the local sales and use tax account and distributed to the regional transportation ((~~investment district~~)) improvement authority according to RCW 82.14.050. The following provisions apply to the use tax in this subsection:

(a) Where persons are taxable under chapter 82.08 RCW, the seller shall collect the use tax from the buyer using the collection provisions of RCW 82.08.050.

(b) Where persons are taxable under chapter 82.12 RCW, the use tax must be collected using the provisions of RCW 82.12.045.

(c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(d) "Person" has the meaning given in RCW 82.04.030.

(e) The value of a motor vehicle must be determined under RCW 82.12.010.

(f) Except as specifically stated in this subsection (2), chapters 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax imposed under the authority of chapter 82.14 RCW, and chapter 82.14 RCW applies fully to the use tax.

Sec. 306. RCW 82.80.005 and 2002 c 56 s 415 are each amended to read as follows:

"AUTHORITY" DEFINED. For the purposes of this chapter, "((~~district~~)) authority" means a regional transportation ((~~investment district~~)) improvement authority created ((~~under chapter 36.120 RCW~~)) in chapter 36.-- RCW (sections 101 through 117 of this act).

Sec. 307. RCW 82.80.010 and 2003 c 350 s 1 are each amended to read as follows:

FUEL TAX--COUNTY. (1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) Subject to the conditions of this section, any county may levy, by approval of its legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election, additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition shall state the tax rate that is proposed. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax shall not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section shall be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county shall contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the levying county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b) and under the conditions and limitations provided in RCW 82.80.080.

(8) The proceeds of the additional excise taxes levied under this section shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

(((~~(9) A county may not levy the tax under this section if they are levying the tax in RCW 82.80.110 or if they are a member of a regional transportation investment district levying the tax in RCW 82.80.120.~~)))

Sec. 308. RCW 82.80.030 and 2002 c 56 s 412 are each amended to read as follows:

COMMERCIAL PARKING TAX. (1) Subject to the conditions of this section, the legislative authority of a county((~~,~~)) or city((~~, or district~~)) may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. ((~~A city or county may impose the tax only to the extent that it has not been imposed by the district, and a district may impose the tax only to the extent that it has not been imposed by a city or county.~~)) The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city ((~~or district~~)) includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, or a county in its unincorporated area, ((~~or a district~~)) may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city((~~,~~)) or county((~~, or district~~)) may provide that:

(a) The tax is paid by the operator or owner of the motor vehicle;

(b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;

(c) The tax is collected by the operator of the facility and remitted to the city((~~,~~)) or county((~~, or district~~));

(d) The tax is a fee per vehicle or is measured by the parking charge;

(e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and

(f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county((~~,~~)) or city((~~, or district~~)) levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used strictly for transportation purposes in accordance with RCW 82.80.070. ((~~The proceeds of the parking tax imposed by a district must be used as provided in chapter 36.120 RCW.~~))

Sec. 309. RCW 82.80.070 and 2002 c 56 s 413 are each amended to read as follows:

LOCAL OPTION TAXES--USES. (1) The proceeds collected pursuant to the exercise of the local option authority of RCW

82.80.010, 82.80.020, 82.80.030, and 82.80.050 (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high-capacity transit improvements and programs; and planning, design, and acquisition of right of way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(2) The local option transportation revenues shall be expended for transportation uses consistent with the adopted transportation and land use plans of the jurisdiction expending the funds and consistent with any applicable and adopted regional transportation plan for metropolitan planning areas.

(3) Each local government with a population greater than eight thousand that levies or expends local option transportation funds, is also required to develop and adopt a specific transportation program that contains the following elements:

(a) The program shall identify the geographic boundaries of the entire area or areas within which local option transportation revenues will be levied and expended.

(b) The program shall be based on an adopted transportation plan for the geographic areas covered and shall identify the proposed operation and construction of transportation improvements and services in the designated plan area intended to be funded in whole or in part by local option transportation revenues and shall identify the annual costs applicable to the program.

(c) The program shall indicate how the local transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions.

(d) The program shall include at least a six-year funding plan, updated annually, identifying the specific public and private sources and amounts of revenue necessary to fund the program. The program shall include a proposed schedule for construction of projects and expenditure of revenues. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for transportation improvements in the program.

(4) Local governments with a population greater than eight thousand exercising the authority for local option transportation funds shall periodically review and update their transportation program to ensure that it is consistent with applicable local and regional transportation and land use plans and within the means of estimated public and private revenue available.

(5) In the case of expenditure for new or expanded transportation facilities, improvements, and services, priorities in the use of local option transportation revenues shall be identified in the transportation program and expenditures shall be made based upon the following criteria, which are stated in descending order of weight to be attributed:

(a) First, the project serves a multijurisdictional function;

(b) Second, it is necessitated by existing or reasonably foreseeable congestion;

(c) Third, it has the greatest person-carrying capacity;

(d) Fourth, it is partially funded by other government funds, such as from the state transportation improvement board, or by private sector contributions, such as those from the local transportation act, chapter 39.92 RCW; and

(e) Fifth, it meets such other criteria as the local government determines is appropriate.

(6) It is the intent of the legislature that as a condition of levying, receiving, and expending local option transportation revenues, no local government agency use the revenues to replace, divert, or loan any revenues currently being used for transportation purposes to nontransportation purposes. ((~~The association of Washington cities and the Washington state association of counties, in consultation with the legislative transportation committee, shall study the issue of nondiversion and make recommendations to the legislative transportation committee for language implementing the intent of this section by December 1, 1990.~~))

(7) Local governments are encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs required by this section for the purpose of accomplishing regional transportation planning and development.

(8) Local governments may use all or a part of the local option transportation revenues for the amortization of local government general obligation and revenue bonds issued for transportation purposes consistent with the requirements of this section.

(((~~(9) Subsections (1) through (8) of this section do not apply to a regional transportation investment district imposing a tax or fee under the local option authority of this chapter. Proceeds collected under the exercise of local option authority under this chapter by a district must be used in accordance with chapter 36.120 RCW.~~))

Sec. 310. RCW 82.80.080 and 2002 c 56 s 414 are each amended to read as follows:

DISTRIBUTION OF TAXES. (1) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 and 82.80.020, levied by counties to the levying counties, and cities contained in those counties, based on the relative per capita population. County population for purposes of this section is equal to one and one-half of the unincorporated population of the county. In calculating the distributions, the state treasurer shall use the population estimates prepared by the state office of financial management and shall further calculate the distribution based on information supplied by the departments of licensing and revenue, as appropriate.

(2) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 and 82.80.020 levied by qualifying cities and towns to the levying cities and towns.

(3) The state treasurer shall distribute to the district revenues, less authorized deductions, generated by the local option taxes under RCW 82.80.010 or fees under RCW 82.80.100 levied by ((~~a district~~)) an authority.

Sec. 311. RCW 82.80.100 and 2002 c 56 s 408 are each amended to read as follows:

VEHICLE FEE. (1) Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, a regional transportation ((~~investment district~~)) improvement authority may set and impose an annual local option vehicle license fee, or a schedule of fees based upon the age of the vehicle, of up to one hundred dollars per motor vehicle registered within the boundaries of the region on every motor vehicle. As used in this section "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW

46.09.020, and snowmobiles as defined in RCW 46.10.010. Vehicles registered under chapter 46.87 RCW and the international registration plan are exempt from the annual local option vehicle license fee set forth in this section. The department of licensing shall administer and collect this fee on behalf of regional transportation ((~~investment districts~~)) improvement authorities and remit this fee to the custody of the state treasurer for monthly distribution under RCW 82.80.080.

(2) ((~~The local option vehicle license fee applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.~~

~~(3)~~)) A regional transportation ((~~investment district~~)) improvement authority imposing the local option vehicle license fee or initiating an exemption process shall enter into a contract with the department of licensing. The contract must contain provisions that fully recover the costs to the department of licensing for collection and administration of the fee.

(((~~(4)~~))) (3) A regional transportation ((~~investment district~~)) improvement authority imposing the local option fee shall delay the effective date of the local option vehicle license fee imposed by this section at least six months from the date of the final certification of the approval election to allow the department of licensing to implement the administration and collection of or exemption from the fee.

Sec. 312. RCW 47.56.075 and 2002 c 56 s 404 are each amended to read as follows:

DOT TOLL ROAD AUTHORITY TO RTIA. The department shall approve for construction only such toll roads as the legislature specifically authorizes or such toll facilities as are specifically sponsored by a regional transportation ((~~investment district~~)) improvement authority, city, town, or county.

NEW SECTION. **Sec. 313.** A new section is added to chapter 36.-- RCW (sections 101 through 117 of this act) to read as follows:

TOLL AUTHORITY. Notwithstanding any provision to the contrary in this chapter, the department of transportation, on behalf of a regional transportation improvement authority, may impose vehicle tolls on local and regional arterials with the approval of the transportation commission, or its successor, and upon approval of a majority of the voters voting on a regional transportation improvement plan ballot measure within its boundaries as authorized in this chapter. These tolls, or value-priced charges, may be imposed to implement the regional transportation improvement plan including improving performance of the regional transportation network, financing transportation improvements, and measuring needed investments. Tolls imposed may vary for type of vehicle, for time of day, for traffic conditions, and for other factors.

NEW SECTION. **Sec. 314.** A new section is added to chapter 82.80 RCW to read as follows:

VEHICLE MILES TRAVELED. (1) The board of a regional transportation improvement authority may impose a value-pricing charge based upon vehicle miles traveled. This charge may be, but is not limited to, a charge upon the vehicle miles traveled within the authority by a vehicle, or upon vehicle miles traveled within certain corridors in the authority, or upon total vehicle miles traveled by a vehicle registered to a person whose legal residence is within the authority.

(2) Charges imposed may be collected either periodically in a manner prescribed by the authority or annually by the department of licensing upon renewal of the vehicle license. The authority may identify categories of miles driven that are subject to or exempt from the charge, including but not limited to, travel outside the authority, travel in specified corridors, time of travel, or exempt or maximum mileage charges.

(3) The mileage charge under this section is subject to the approval of the transportation commission or its statutory successor, and the authority to impose a charge is subject to voter approval as set forth in section 107 of this act.

(4) An authority imposing a mileage charge collected annually by the department of licensing upon renewal of the vehicle license shall enter into a contract with the department of licensing. The contract must contain provisions that fully recover the costs to the department of licensing for collection and administration of the charge. The authority imposing this charge or initiating an exemption process shall provide at least six months' notice to the department of licensing before the implementation of any changes in registration amounts or exemptions.

Sec. 315. RCW 47.56.076 and 2002 c 56 s 403 are each amended to read as follows:

COMMISSION--TOLLING. Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, and ((~~only for the purposes authorized in RCW 36.120.050(1)(f)~~)) with the approval of the transportation commission, or its successor, a regional transportation ((~~investment district~~)) improvement authority may ((~~impose~~)) authorize vehicle tolls on a state ((~~routes where improvements financed in whole or in part by a regional transportation investment district add additional lanes to, or reconstruct lanes on, a highway of statewide significance~~)) or federal highway within the boundaries of the authority. The department shall administer the collection of vehicle tolls authorized on designated facilities unless otherwise specified in law or by contract, and the state transportation commission, or its successor, shall ((~~be the tolling authority~~)) set and impose the tolls, based on value-pricing, in amounts sufficient to implement the regional transportation improvement plan.

NEW SECTION. **Sec. 316.** A new section is added to chapter 47.56 RCW to read as follows:

I-90/SR 520 TOLLING. Notwithstanding any provision to the contrary in this chapter, a regional transportation improvement authority may impose vehicle tolls on either Lake Washington bridge upon approval of a majority of the voters voting on a regional transportation improvement plan ballot measure within its boundaries and to implement an improvement plan as authorized in chapter 36.-- RCW (sections 101 through 117 of this act) and RCW 47.56.076.

PART IV
NEW GOVERNANCE DEVELOPMENT

NEW SECTION. **Sec. 401.** LEGISLATIVE INTENT. The legislature finds that increased demands on transportation resources require increased efficiency and effectiveness in decision making within urbanized regions. Legislative enactments, public votes on local and state initiatives and referenda, and the number of agencies involved in transportation planning and delivery of services has significantly added to the complexity of transportation programs.

The legislature further finds that coordinated planning, investment in, and operation of transportation systems by the state and local governments can help ensure an efficient, effective transportation system that addresses community needs. Such coordination can also enhance local and state objectives for effective

regional transportation strategies and effective coordination between land use and transportation.

The legislature finds that addressing this need for better accountability and coordination requires a comprehensive regional examination of alternative methods for consolidating and coordinating transportation efforts, and improving accountability. This examination is best accomplished by an independent body of experts in governmental organization and transportation issues. It further finds that the results of this process will guide the legislature and the public in shaping changes to ensure public confidence in public institutions and tax expenditures.

NEW SECTION. **Sec. 402.** ESTABLISHMENT OF COMMISSION. (1) The county executives of all counties having a population of over five hundred thousand persons, that adjoin other counties having a population of over five hundred thousand persons, shall jointly appoint a regional transportation governance commission. The county commission of any other county within the regional transportation planning organization in which the counties are located shall also appoint a member to the governance commission. The governor shall appoint a voting member of the commission, who shall be chair, and shall appoint additional members so that the governor's appointments constitute at least one-third of the voting membership of the commission. In addition, the secretary of transportation or the secretary's designee shall serve as a nonvoting member. Appointees must be citizen members, who do not hold public office. Appointees must include experts from the private and public sectors, including academia, with demonstrated expertise in innovation, structural reorganization, and private or public agency decision making and must also include experts in fields such as municipal law, public administration, intergovernmental relationships, and transportation planning, construction, operations, and risk management. The commission may not exceed eighteen voting members.

(2) The commission shall evaluate transportation governance in the central Puget Sound area under the jurisdiction of the Puget Sound regional council. This evaluation must include an assessment of the current roles of regional transportation agencies including regional transportation and metropolitan planning organizations, the regional transit authority, regional transportation improvement authorities, county and municipal agencies operating transit services, and cities and counties and other public agencies providing transportation services or facilities. The commission shall assess and develop recommendations for what steps should be taken to:

(a) Consolidate governance among agencies including changes in institutional powers, structures, and relationships and governance needed to improve accountability for transportation decisions, while enhancing the regional focus for transportation decisions and maintaining equity among citizens in the region;

(b) Improve coordination in the planning of transportation investments and services;

(c) Improve investment strategies;

(d) Coordinate transportation planning and investments with adopted land use policies within the region;

(e) Enhance efficiency and coordination in the delivery of services provided;

(f) Adjust boundaries for agencies or functions within the region to address existing and future transportation and land use issues; and

(g) Improve coordination between regional investments and federal funds, and state funding including those administered by the transportation improvement board, the county road administration board, and the freight mobility strategic investment board.

(3) The commission shall make public its preliminary findings and recommendations by November 15, 2005, and shall provide at least fifteen days for public comment. The commission shall then adopt its findings and recommendations and submit them to the legislature by January 1, 2006.

(4) The commission shall conduct public meetings to assure active public participation in the development of the recommendations.

NEW SECTION. **Sec. 403.** COMMISSION STAFF SUPPORT. The department of transportation shall provide staff support to the commission and, upon request of the commission, contract with other parties for staff support to the commission.

PART V
REPEAL OF REGIONAL TRANSPORTATION INVESTMENT DISTRICT PROVISIONS

NEW SECTION. **Sec. 501.** The following acts or parts of acts are each repealed:

(1) RCW 36.120.010 (Findings) and 2002 c 56 s 101;

(2) RCW 36.120.020 (Definitions) and 2002 c 56 s 102;

(3) RCW 36.120.030 (Planning committee formation) and 2002 c 56 s 103;

(4) RCW 36.120.040 (Planning committee duties) and 2003 c 194 s 1 & 2002 c 56 s 104;

(5) RCW 36.120.050 (Taxes, fees, and tolls) and 2003 c 350 s 4 & 2002 c 56 s 105;

(6) RCW 36.120.060 (Project selection--Performance criteria) and 2002 c 56 s 106;

(7) RCW 36.120.070 (Submission of plan to the voters) and 2002 c 56 s 107;

(8) RCW 36.120.080 (Formation--Certification) and 2002 c 56 s 108;

(9) RCW 36.120.090 (Governing board--Composition) and 2002 c 56 s 109;

(10) RCW 36.120.100 (Governing board--Organization) and 2002 c 56 s 110;

(11) RCW 36.120.110 (Governing board--Powers and duties--Intent) and 2002 c 56 s 111;

(12) RCW 36.120.120 (Treasurer) and 2002 c 56 s 112;

(13) RCW 36.120.130 (Indebtedness--Bonds--Limitation) and 2003 c 372 s 1 & 2002 c 56 s 113;

(14) RCW 36.120.140 (Transportation project or plan modification--Accountability) and 2003 c 194 s 2 & 2002 c 56 s 114;

(15) RCW 36.120.150 (Department of transportation--Role) and 2002 c 56 s 115;

(16) RCW 36.120.160 (Ownership of improvements) and 2002 c 56 s 116;

(17) RCW 36.120.170 (Dissolution of district) and 2002 c 56 s 117;

(18) RCW 36.120.180 (Findings--Regional models--Grants) and 2002 c 56 s 118;

(19) RCW 36.120.190 (Joint ballot measure) and 2002 c 56 s 201;

(20) RCW 36.120.200 (Regional transportation investment district account) and 2002 c 56 s 401;

(21) RCW 36.120.900 (Captions and subheadings not law--2002 c 56) and 2002 c 56 s 501;

(22) RCW 36.120.901 (Severability--2002 c 56) and 2002 c 56 s 503;

(23) RCW 82.80.110 (Motor vehicle and special fuel tax--

Dedication by county to regional transportation investment district plan) and 2003 c 350 s 2; and

(24) RCW 82.80.120 (Motor vehicle and special fuel tax--Regional transportation investment district) and 2003 c 350 s 3.

PART VI
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 601.** CAPTIONS. Captions and part headings used in this act are not part of the law.

NEW SECTION. **Sec. 602.** STATEWIDE MOTOR FUEL TAXES HELD HARMLESS. Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in RCW 46.68.090, are not intended to be altered by this act.

NEW SECTION. **Sec. 603.** CODIFICATION. Sections 101 through 117 and 315 of this act constitute a new chapter in Title 36 RCW.

NEW SECTION. **Sec. 604.** SEVERABILITY. 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.

Representative Kilmer moved the adoption of amendment (326) to amendment (324):

On page 4, line 11 of the amendment, after "county." insert "However, any portion of a county that is located on a peninsula may not be part of a regional transportation improvement authority plan in which more than one county is included, until a plan has been approved under section 107 of this act, if the portion of the county located on the peninsula is connected to the other portion of the county by a bridge improved under the Public-Private Transportation Initiatives Act, chapter 47.46 RCW, and the county has a national park and a population of more than five hundred thousand persons, but less than one million five hundred thousand persons."

Representative Kilmer spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

The question before the House was the adoption of amendment (324) as amended.

The amendment 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.

Representatives Murray, Woods and Jarrett spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2157.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2157 and the bill passed the House by the following vote: Yeas - 77, Nays - 19, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Appleton, Armstrong, Bailey, Blake, Buck, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 77.

Voting nay: Representatives Alexander, Anderson, Buri, Condotta, Cox, Crouse, DeBolt, Hasegawa, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Pearson, Roach, Schindler, Sullivan, P., Sump and Talcott - 19.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2157, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2266, By Representatives Campbell, Morrell, Green, Moeller, Lantz, Cody, McCune, Haler, Lovick, McDonald and Ahern

Concerning access to certain precursor drugs.

The bill was read the second time.

Representative Sommers moved that Substitute House Bill No. 2266 be substituted for House Bill No. 2266 and the substitute bill be placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2266 was read the second time.

With the consent of the House, amendment (309) was withdrawn.

Representative Campbell moved the adoption of amendment (281):

Strike all material after the enacting clause and insert the following:

"NEW SECTION. **Sec. 2.** Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine.

NEW SECTION. **Sec. 3.** A new section is added to chapter 69.43 RCW to read as follows:

Any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, dispensed, sold, or distributed at retail shall be dispensed, sold, or distributed only by a licensed pharmacist or a practitioner as defined in RCW 18.64.011. A pharmacist or practitioner purchasing, receiving, or otherwise acquiring any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, must provide adequate identification verifying that the pharmacist is licensed by the state. A pharmacist or practitioner that dispenses, sells, or distributes any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, must comply with all of the requirements of section 3 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 69.43 RCW to read as follows:

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person, and having the person sign a written log or receipt showing the date of the transaction, the name of the person, and the amount of the product being sold, transferred, or otherwise furnished. The written log must be maintained for a period of two years.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person, and sign a written log or receipt showing the date of the transaction, the name of the person, and the amount of the product being sold, transferred, or otherwise furnished.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept in a location that is not accessible by customers without assistance of an employee of the merchant. If the product contains ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, the product must be kept in a location within the pharmacy area that is not accessible by customers.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers to a person that is not at least eighteen years old.

(6) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner shall provide access to the written log to the board of pharmacy or department of health if necessary for regulatory activities.

(7) The board of pharmacy, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(a) Ease with which the product can be converted to methamphetamine;

(b) Ease with which pseudoephedrine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(8) Nothing in this section applies:

(a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;

(b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification,

making a reasonable effort to determine the customer's age, and documenting the transaction in the written log.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection (10) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age, and documenting the transaction in the written log.

(10) A violation of this section is a gross misdemeanor.

Sec. 5. RCW 18.64.044 and 2004 c 52 s 2 are each amended to read as follows:

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 6. RCW 18.64.046 and 2004 c 52 s 3 are each amended to read as follows:

(1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The board may suspend or revoke the license of any wholesaler that violates this section.

(5) The board may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, as its only active ingredient, to any person in Washington other than a pharmacy licensed under this chapter or a practitioner as defined in RCW 18.64.011.

(b) No wholesaler may sell any ((~~quantity~~)) product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers in combination with another active ingredient, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, ((~~or~~)) a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in section 3 of this act.

(c) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

Sec. 7. RCW 18.64.047 and 2004 c 52 s 4 are each amended to read as follows:

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers in combination with another active ingredient, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor."

Correct the title.

Representative Morrell moved the adoption of amendment (311) to amendment (281):

On page 1, line 14, after "pharmacist" insert ", an employee of a pharmacy or pharmacist,"

On page 1, line 14, after "18.64.011" insert ", or an employee of a practitioner"

Representative Morrell spoke in favor of the adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Representative Hinkle moved the adoption of amendment (306) to amendment (281):

On page 4, line 4 of the amendment, after "(8)" insert "The board of pharmacy must inspect the written logs that must be maintained according to this section of each licensed pharmacy, registered shopkeeper or itinerant vendor, practitioner as defined in RCW 18.64.011, or traditional Chinese herbal practitioner at least once every three months at the business location where the log is maintained. If, upon inspection, there is reason to believe that a suspicious transaction, as defined in RCW 69.43.035, has occurred, the board of pharmacy shall conduct an investigation and shall report the suspicious transaction to the appropriate law enforcement agencies.

(9)"

On page 4, at the beginning of line 16 of the amendment, strike "(9)" and insert "(10)"

On page 4, at the beginning of line 33 of the amendment, strike "(10)" and insert "(11) The department of health may not raise the licensing or registration fees of any pharmacy, shopkeeper, itinerant vendor, or practitioner as defined in RCW 18.64.011 to pay for the activities required by this section.

(12)"

On page 9, after line 30 of the amendment, insert the following:

"NEW SECTION. **Sec. 7.** If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus

appropriations act, this act is null and void."

Representatives Hinkle spoke in favor of the adoption of the amendment to the amendment.

Representative Campbell spoke against the adoption of the amendment to the amendment.

The amendment to the amendment was not adopted.

Representative Hinkle moved the adoption of amendment (342) to amendment (281):

On page 1, beginning on line 1 of the amendment strike all material through "distributor."" on page 9, line 30 and insert the following:

"NEW SECTION. **Sec. 2.** Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine.

NEW SECTION. **Sec. 3.** A new section is added to chapter 69.43 RCW to read as follows:

(1) Any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, sold at retail shall be sold only by a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011. A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011 may only sell products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient to customers that are at least eighteen years old, upon presentation of photographic identification that shows the date of birth of the person. The products must be kept in a location that is not accessible by customers without the assistance of an employee of the merchant.

(2) A person buying or receiving a product at retail containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, must be at least eighteen years old and must first produce photographic identification of the person that shows the date of birth of the person.

(3) Nothing in this section applies to products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers as its only active ingredient and that is in liquid, liquid capsule, or gel capsule form.

NEW SECTION. **Sec. 4.** A new section is added to chapter 69.43 RCW to read as follows:

(1)(a) The Washington association of sheriffs and police chiefs, the Washington state patrol, or the department of ecology may petition the board to establish restrictions for one or more products in any form containing any amount of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient or where it is the only active ingredient and it is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(i) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(ii) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(b) The board shall adopt rules when a petition establishes that restricting the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The board may adopt such restrictions as are warranted to prevent access to the product for use for the illegal manufacture of methamphetamine or another controlled dangerous substance, including the presentation of photographic identification and accessibility requirements. The board may adopt emergency rules to restrict the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

(c) A manufacturer of a drug product may apply for removal of the product from this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(i) Ease with which the product can be converted to methamphetamine;

(ii) Ease with which pseudoephedrine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(iii) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(iv) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(v) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(2) Nothing in this section applies:

(a) To the sale of a product that may only be sold upon the presentation of a prescription; or

(b) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(3)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or a practitioner as defined in RCW 18.64.011, may retaliate against any employee that has made a good faith attempt to comply with any requirement that the board may impose under subsection (1).

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW,

or a practitioner as defined in RCW 18.64.011, is subject to prosecution under subsection (4) of this section if they made a good faith attempt to comply with any requirement that the board may impose under subsection (1).

(4) A violation of this section is a gross misdemeanor."

Correct the title.

Representatives Hinkle and Serben spoke in favor of the adoption of the amendment to the amendment.

Representatives Campbell and Morrell spoke against the adoption of the amendment to the amendment.

An electronic roll call vote was demanded and the demand was sustained.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (342) to amendment (281) to Substitute House Bill No. 2266.

ROLL CALL

The Clerk called the roll on the adoption of amendment (342) to amendment (281) to Substitute House Bill No. 2266, and the amendment to the amendment was not adopted by the following vote: Yeas - 45, Nays - 51, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Eickmeyer, Ericks, Ericksen, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, Linville, McDonald, Morris, Newhouse, Nixon, Orcutt, Pearson, Priest, Quall, Roach, Rodne, Schindler, Sells, Serben, Shabro, Skinner, Strow, B. Sullivan, P. Sullivan, Sump, Talcott, Tom, Walsh, Williams and Woods - 45.

Voting nay: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Lovick, McCoy, McCune, McDermott, McIntire, Miloscia, Moeller, Morrell, Murray, O'Brien, Ormsby, Pettigrew, Roberts, Santos, Simpson, Sommers, Springer, Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 51.

Excused: Representatives Curtis and Schual-Berke - 2.

The question before the House was adoption of amendment (281) as amended.

The amendment 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.

Representatives Campbell and Ahern spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2266.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2266 and the bill passed the House by the following vote: Yeas - 79, Nays - 17, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Appleton, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schindler, Sells, Serben, Simpson, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 79.

Voting nay: Representatives Alexander, Anderson, Armstrong, Bailey, Buri, Chandler, Clements, Condotta, Cox, Hinkle, Hunt, Newhouse, Nixon, Rodne, Shabro, Skinner and Upthegrove - 17.

Excused: Representatives Curtis and Schual-Berke - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2266, having received the necessary constitutional majority, was declared passed.

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

There being no objection, the House adjourned until 10:00 a.m., March 15, 2005, the 65th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk