SIXTY-SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, March 10, 2007

The Senate was called to order at 9:45 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin and Hewitt.

The Sergeant at Arms Color Guard consisting of Interns Theresa Hickey and Cody Garner, presented the Colors. Pastor Betty Hatter of the City of Truth Ministries Church offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1030 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Takko, Lovick, Simpson, Haler, Blake, Campbell, Ross, Skinner, Newhouse, Conway, Morrell, Chandler, McDonald, Rodne, Kristiansen, Wallace, Moeller, VanDeWege, McCune, Williams, Bailey, Warnick, Upthegrove, Alexander and Pearson)

AN ACT Relating to the penalty for attempting to elude a police vehicle; reenacting and amending RCW 9.94A.533; adding a new section to chapter 9.94A RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

ESHB 1050 by House Committee on Education (originally sponsored by Representatives Upthegrove, Quall, Kagi, Pedersen, Morrell, Kenney, P. Sullivan, Jarrett, Simpson, Wallace, Cody, McDermott, Linville, Moeller, Morris, Springer, Wood, Santos, Schual-Berke, Williams, Ormsby and Hasegawa)

AN ACT Relating to allowing certain students with disabilities to participate in graduation ceremonies; adding a new section to chapter 28A.155 RCW; and creating new sections.

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

SHB 1091 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives VanDeWege, Chase, Upthegrove, Miloscia, B. Sullivan, O'Brien, P. Sullivan, Morrell, Sells, Kenney, Rolfes, Kelley, Moeller, Wallace and Eddy)

AN ACT Relating to innovation partnership zones; amending RCW 39.102.070 and 82.14.370; adding a new section to chapter 43.330 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Management.

2SHB 1096 by House Committee on Appropriations (originally sponsored by Representatives Kenney, Priest, Quall, Wallace, Conway, Haler, Morris, Ormsby, Linville, Jarrett, Dickerson, Hunt, Walsh, P. Sullivan, Darneille, Appleton, Morrell, Williams, Dunn, Schual-Berke, Fromhold, Hasegawa, Chase, Upthegrove, McCoy, Green, O'Brien, Hudgins, Sells, Springer, Moeller, Goodman, Barlow, Eddy, Santos, Simpson, Haigh, Lantz, Kagi and Rolfes)

AN ACT Relating to creating postsecondary opportunity programs; amending RCW 28B.50.030; adding new sections to chapter 28B.50 RCW; and creating new sections.

Referred to Committee on Higher Education.

2SHB 1106 by House Committee on Appropriations (originally sponsored by Representatives Campbell, Chase, Hankins, Morrell, Appleton, Hudgins, McDermott and Wallace)

AN ACT Relating to the reporting of infections acquired in health care facilities; reenacting and amending RCW 70.41.200 and 42.56.360; adding new sections to chapter 43.70 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

ESHB 1147 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz, B. Sullivan, Hinkle, Pettigrew, Linville, Kristiansen, Blake, Takko, Newhouse, Warnick, Hailey, Grant, Armstrong, Kessler, Wallace, Haigh, Moeller, Haler and Condotta)

AN ACT Relating to damage to livestock caused by wildlife; amending RCW 77.36.005, 77.36.010, 77.36.040, 77.36.050, 77.36.060, 77.36.070, and 77.36.080; and adding a new section to chapter 77.36 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 1148 by House Committee on Housing (originally sponsored by Representatives Simpson, Dunn, Orcutt, McCune, Chase, Wallace, Ormsby and Springer)

AN ACT Relating to the restriction of mobile home or manufactured home locations in mobile home parks or manufactured housing communities; and amending RCW 35.21.684, 35A.21.312, and 36.01.225.

Referred to Committee on Consumer Protection & Housing.

2SHB 1178 by House Committee on Appropriations (originally sponsored by Representatives Rolfes, Linville, Simpson, Wallace, Kenney, Ericks and Green)

AN ACT Relating to contracts with associate development organizations for economic development services; amending RCW 43.330.080; adding new sections to chapter 43.330 RCW; and creating new sections.

Referred to Committee on Economic Development, Trade & Management.

ESHB 1226 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Sells, Barlow, Santos, Appleton, Lovick, Strow, Hasegawa, Quall, Dunshee, Hunt, McCoy, Priest, Ormsby, Wood, Wallace, Conway, Kenney, VanDeWege, Dickerson, Haigh and Simpson)

AN ACT Relating to establishing the first peoples' language, culture, and history teacher certification program; amending RCW 28A.415.020; adding a new section to chapter 28A.410 RCW; and creating new sections.

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

SHB 1276 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Linville, McDonald, Dunshee, Chase, Upthegrove, Strow, Dunn, Haler, VanDeWege, McCune, Kenney, Roberts and Morrell)

AN ACT Relating to creating a public-private tourism partnership; amending RCW 67.40.040, 43.330.096, 43.330.090, and 43.330.094; adding a new chapter to Title 43 RCW; creating a new section; recodifying RCW 43.330.096; and repealing RCW 43.330.095.

Referred to Committee on Economic Development, Trade & Management.

2SHB 1277 by House Committee on Finance (originally sponsored by Representatives Kelley, Simpson, Wood, P. Sullivan, Conway, Kenney, Ericks, Rolfes and Morrell)

AN ACT Relating to expanding competitive local infrastructure financing tools projects; amending RCW 39.102.020, 39.102.040, 39.102.050, 39.102.060, 39.102.090, 39.102.120, 82.14.475, 39.102.140, and 39.102.150; adding a new section to chapter 39.102 RCW; creating a new section; repealing RCW 39.102.180; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Management.

SHB 1298 by House Committee on Health Care & Wellness (originally sponsored by Representatives Green, Campbell, Cody, Morrell, Moeller and Conway)

AN ACT Relating to dental hygiene; amending RCW 18.29.056 and 18.29.220; adding a new section to chapter 18.29 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 1313 by Representatives Eddy, Hankins and Kenney

AN ACT Relating to the intervention authority of the department of transportation on railroad shipping matters; amending RCW 47.76.240; and repealing RCW 81.28.250.

Referred to Committee on Transportation.

SHB 1337 by House Committee on Health Care & Wellness (originally sponsored by Representatives Kenney, Skinner, Hunter, Priest, Darneille, Ericks, Pettigrew, Hankins, Lantz, Fromhold, Walsh, Williams, Kessler, Haler, Morrell, Barlow, McCoy, Appleton, Ormsby, Springer, Campbell, Moeller, Lovick, Rolfes, Hasegawa, Flannigan, Hudgins, Hunt, Green, Chase, Dunshee, Simpson, Roberts, O'Brien, Rodne, Dickerson, Quall, Goodman, Linville, Hurst, Santos and Wallace)

AN ACT Relating to insurance coverage for colorectal cancer early detection; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

HB 1371 by Representative Appleton

AN ACT Relating to traffic infractions involving rental vehicles; and amending RCW 46.63.073, 46.63.160, and 46.63.170.

Referred to Committee on Transportation.

ESHB 1512 by House Committee on Finance (originally sponsored by Representatives Hasegawa, Haler, Pettigrew, Skinner, Santos, Hankins, Kenney, Walsh, McCoy, Kirby, Schual-Berke, Chase, Williams, Roberts, P. Sullivan, Hudgins, Ericks, Darneille, Kagi and Ormsby)

AN ACT Relating to the linked deposit program; amending RCW 43.86A.030 and 43.86A.060; adding a new section to chapter 43.86A RCW; creating a new section; and providing a contingent effective date.

Referred to Committee on Financial Institutions & Insurance.

HB 1517 by Representatives Schual-Berke, Priest, McDermott, Anderson, Quall, Kenney, Roberts, Lantz, Kagi, Moeller, Santos, Hunt and Hudgins

AN ACT Relating to enhancing world language instruction in public schools; adding new sections to chapter 28A.300 RCW; and creating a new section.

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

SHB 1538 by House Committee on Health Care & Wellness (originally sponsored by Representatives Bailey, Linville, Hinkle, Alexander, Haler, Strow, Rodne, Warnick, Morrell, Green and Ericksen)

AN ACT Relating to an independent study of health benefit requirements; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SHB 1566 by House Committee on Finance (originally sponsored by Representatives VanDeWege, Ericks, McIntire, Ericksen, Ross, Warnick, Condotta, Kessler and McCune)

AN ACT Relating to modifying the rural county tax credit provided in chapter 82.62 RCW; amending RCW 82.62.010, 82.62.020, 82.62.030, 82.62.045, and 82.62.050; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

HB 1644 by Representatives Kenney, Sells, Anderson, Appleton, Morrell, Linville, Roberts, Ormsby, McDermott, Conway, Schual-Berke and Haigh

AN ACT Relating to health care eligibility for part-time academic employees of community and technical colleges;

amending RCW 41.05.053; and amending 2006 c 308 s 1 (uncodified).

Referred to Committee on Higher Education.

SHB 1675 by House Committee on Appropriations (originally sponsored by Representatives Santos, Curtis, McDermott, Williams, Upthegrove, Hasegawa, Roberts, Schual-Berke, Simpson and Darneille)

AN ACT Relating to providing public notices of public health, safety, and welfare in a language other than English; and adding a new section to chapter 1.20 RCW.

Referred to Committee on Government Operations & Elections.

2SHB 1677 by House Committee on Appropriations (originally sponsored by Representatives Quall, Rodne, Dunshee, Ormsby, B. Sullivan, Hurst, Chase, Hunt, P. Sullivan, Pettigrew, Lovick, Jarrett, McCoy, Anderson, Upthegrove, Santos, Sells, Conway and Rolfes)

AN ACT Relating to outdoor education and recreation; adding a new section to chapter 79A.05 RCW; and creating a new section.

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

SHB 1694 by House Committee on Transportation (originally sponsored by Representatives Flannigan, Upthegrove and Kenney)

AN ACT Relating to the agency council on coordinated transportation; amending RCW 47.06B.015, 47.06B.040, 47.06B.900, 47.80.023, and 47.06B.901; reenacting and amending RCW 47.06B.030; adding a new section to chapter 47.06B RCW; creating a new section; and repealing 1999 c 372 s 13.

Referred to Committee on Transportation.

HB 1887 by Representatives Linville, Armstrong and Grant

AN ACT Relating to allowing identicard renewal by mail or electronic commerce for individuals over the age of seventy; amending RCW 46.20.117; and providing an effective date.

Referred to Committee on Transportation.

HB 1923 by Representatives Hunt and Condotta

AN ACT Relating to requirements for motor vehicle transporter license applications; and amending RCW 46.76.020.

Referred to Committee on Transportation.

SHB 1955 by House Committee on Transportation (originally sponsored by Representatives Wood, B. Sullivan, Kristiansen, Condotta, Crouse and Lovick)

AN ACT Relating to establishing licensing requirements for certain vehicle dealers; amending RCW 46.09.020, 46.70.011, 46.10.010, and 46.10.043; adding a new section to chapter 46.70 RCW; and repealing RCW 46.09.080, 46.09.085, 46.10.050, and 46.10.055.

Referred to Committee on Transportation.

SHB 1965 by House Committee on Local Government (originally sponsored by Representatives Eddy and Curtis)

AN ACT Relating to authorizing major industrial development within industrial land banks; and amending RCW 36.70A.367.

Referred to Committee on Government Operations & Elections.

EHB 1967 by Representatives Moeller, Skinner, Cody, Williams, Barlow, Rodne, Condotta and Campbell

AN ACT Relating to the reporting of physician convictions for driving while under the influence to an approved substance abuse program; and adding a new section to chapter 43.43 RCW.

Referred to Committee on Judiciary.

SHB 2007 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy and Crouse)

AN ACT Relating to defining allowable fuel blends; and amending RCW 19.112.100.

Referred to Committee on Water, Energy & Telecommunications.

HB 2026 by Representatives Santos, McDermott, Haigh, P. Sullivan, Ericks, Simpson, Ormsby and Hasegawa

AN ACT Relating to recruiters' access to high school students; and adding a new section to chapter 28A.600 RCW.

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

HB 2032 by Representatives Takko and Hinkle

AN ACT Relating to the application process for the fruit and vegetable processing and storage tax deferral; amending 2005 c 513 s 14 (uncodified); creating a new section; and declaring an emergency.

Referred to Committee on Agriculture & Rural Economic Development.

HB 2033 by Representatives Ormsby, Campbell, Fromhold, Haigh, Armstrong, P. Sullivan, Conway, Green, Kagi, Hunt, McIntire, McDermott, McCoy, Buri, Williams, Miloscia, Linville, Moeller, DeBolt, McDonald, Priest, Condotta, Roberts and Simpson

AN ACT Relating to payroll deductions for retiree organization dues; and amending RCW 41.04.230.

Referred to Committee on Government Operations & Elections.

2SHB 2055 by House Committee on Appropriations (originally sponsored by Representatives Flannigan, Ahern, McCoy, Ormsby and Santos)

AN ACT Relating to traumatic brain injury; amending RCW 46.20.311 and 46.68.041; reenacting and amending RCW 43.84.092; adding a new section to chapter 46.20 RCW; and adding a new chapter to Title 74 RCW.

Referred to Committee on Health & Long-Term Care.

EHB 2070 by Representatives O'Brien, Goodman and Pearson

AN ACT Relating to exceptional sentences; amending RCW 9.94A.537; creating a new section; and declaring an emergency.

Referred to Committee on Judiciary.

ESHB 2073 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Kenney, Moeller, Simpson and Ormsby)

AN ACT Relating to a pilot program for vocational rehabilitation services; amending RCW 51.32.095; adding new sections to chapter 51.32 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Labor, Commerce, Research & Development.

SHB 2103 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Crouse and Wallace)

AN ACT Relating to competitive classification of telecommunications services; amending RCW 80.36.330; and adding a new section to chapter 80.36 RCW.

Referred to Committee on Water, Energy & Telecommunications.

SHB 2129 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives VanDeWege, Hudgins, Morris, Eddy, Crouse, Hankins, McCoy, Takko, Hurst, McCune and Chase)

AN ACT Relating to geothermal resources; and amending RCW 78.60.070, 78.60.100, 78.60.130, 78.60.200, 78.60.210, and 78.60.230.

Referred to Committee on Water, Energy & Telecommunications.

HB 2137 by Representatives Wallace, Skinner, Kagi, Hankins, Roberts, Chase, Kenney, Moeller, Simpson and Santos

AN ACT Relating to allowing certificated and classified school employees' children with disabilities to enroll in the district where the employee is assigned; and amending RCW 28A.225.225 and 28A.225.270.

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

HB 2161 by Representatives Simpson, Curtis, Eddy and Ormsby

AN ACT Relating to providing for consistency between code cities and noncode cities in the apportionment of investment funds; and amending RCW 35A.40.050.

Referred to Committee on Government Operations & Elections.

HB 2163 by Representatives Cody, Sommers, Kenney and Moeller

AN ACT Relating to the public employees' benefits board medical benefits administration account; and amending RCW 41.05.143.

Referred to Committee on Ways & Means.

HB 2263 by Representatives Blake, Moeller, Orcutt and Newhouse

AN ACT Relating to the phosphorus content in dishwashing detergent; and amending RCW 70.95L.020.

Referred to Committee on Water, Energy & Telecommunications.

HJM 4017 by Representatives Kessler and VanDeWege

Naming portions of Highways 112 and 113 the Korean War Veteran's Blue Star Memorial Highway.

Referred to Committee on Transportation.

SHJR 4215 by House Committee on Capital Budget (originally sponsored by Representatives Kenney, Sells, Buri, Hunt and Wood)

Eliminating prohibitions on the investment of certain state moneys.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

SECOND READING

SENATE BILL NO. 6030, by Senators Parlette and Schoesler

Providing health insurance options for young adults.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 6030 was substituted for Senate Bill No. 6030 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Parlette moved that the following striking amendment by Senator Parlette be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.43.041 and 2000 c 79 s 26 are each amended to read as follows:

(1) All individual health benefit plans, other than catastrophic health plans((~~, offered or renewed on or after October 1, 2000~~)) and plans for young adults as described in subsection (3) of this section, shall include benefits described in this section. Nothing in this section shall be construed to require a carrier to offer an individual health benefit plan.

(a) Maternity services that include, with no enrollee cost-sharing requirements beyond those generally applicable cost-sharing requirements: Diagnosis of pregnancy; prenatal care; delivery; care for complications of pregnancy; physician services; hospital services; operating or other special procedure rooms; radiology and laboratory services; appropriate medications; anesthesia; and services required under RCW 48.43.115; and

(b) Prescription drug benefits with at least a two thousand dollar benefit payable by the carrier annually.

(2) If a carrier offers a health benefit plan that is not a catastrophic health plan to groups, and it chooses to offer a health benefit plan to individuals, it must offer at least one health benefit plan to individuals that is not a catastrophic health plan.

(3) Carriers may design and offer a separate health plan targeted at young adults between nineteen and thirty-four years of age. The plan may include the benefits required under subsections (1) and (2) of this section but is not required to include these benefits. The health plan designed for young adults may be exempt from the requirements of RCW 48.43.045(1), 48.43.515(5), 48.44.327, 48.20.392, and 48.46.277.

Sec. 2. RCW 48.44.022 and 2006 c 100 s 3 are each amended to read as follows:

(1) Except for health benefit plans covered under RCW 48.44.021, premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health care service contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(i) Geographic area;

(ii) Family size;

(iii) Age;

(iv) Tenure discounts; and

(v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health care service contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

(i) Changes to the family composition;

(ii) Changes to the health benefit plan requested by the individual; or

(iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, except individuals purchasing coverage under RCW 48.44.021, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.44.023. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(d) of this section.

(3) As used in this section and RCW 48.44.023 "health benefit plan," "small employer," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 3. RCW 48.46.064 and 2006 c 100 s 5 are each amended to read as follows:

(1) Except for health benefit plans covered under RCW 48.46.063, premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(i) Geographic area;

(ii) Family size;

(iii) Age;

(iv) Tenure discounts; and

(v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

(i) Changes to the family composition;

(ii) Changes to the health benefit plan requested by the individual; or

(iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the

portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, except individuals purchasing coverage under RCW 48.46.063, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.46.066. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(d) of this section.

(3) As used in this section and RCW 48.46.066, "health benefit plan," "adjusted community rate," "small employer," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 4. RCW 48.20.029 and 2006 c 100 s 2 are each amended to read as follows:

(1) Premiums for health benefit plans for individuals who purchase the plan as a member of a purchasing pool:

(a) Consisting of five hundred or more individuals affiliated with a particular industry;

(b) To whom care management services are provided as a benefit of pool membership; and

(c) Which allows contributions from more than one employer to be used towards the purchase of an individual's health benefit plan;

shall be calculated using the adjusted community rating method that spreads financial risk across the entire purchasing pool of which the individual is a member. All such rates shall conform to the following:

(i) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(A) Geographic area;

(B) Family size;

(C) Age;

(D) Tenure discounts; and

(E) Wellness activities.

(ii) The adjustment for age in (c)(i)(C) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(iii) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer, and coverage for which medicare is not the primary payer. Both rates are subject to the requirements of this subsection.

(iv) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(v) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs not to exceed twenty percent.

(vi) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

(A) Changes to the family composition;

(B) Changes to the health benefit plan requested by the individual; or

(C) Changes in government requirements affecting the health benefit plan.

(vii) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(viii) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.21.045. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(c)(iv) of this section.

(3) As used in this section, "health benefit plan," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43 RCW to read as follows:

The office of the insurance commissioner shall make available educational and outreach materials targeted to young adults aged nineteen to thirty-four, as funding becomes available. Education and outreach efforts shall focus on educating young consumers on the importance and value of health insurance, including educational materials, public service messages, and other outreach activities. The commissioner is authorized to fund these activities with grants, donations, in-kind contributions, or other funding that may be available."

On page 1, line 1 of the title, after "adults;" strike the remainder of the title and insert "amending RCW 48.43.041, 48.44.022, 48.46.064, and 48.20.029; and adding a new section to chapter 48.43 RCW."

Senators Parlette, Holmquist, Roach, Stevens and Pflug spoke in favor of adoption of the striking amendment.

Senators Keiser, Franklin and Marr spoke against adoption of the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

MOTION

On motion of Senator Brandland, Senators Delvin and Hewitt were excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Parlette to Substitute Senate Bill No. 6030.

ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Parlette and the amendment was not adopted by the following vote: Yeas, 17; Nays, 30; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Holmquist, Honeyford, Jacobsen, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 17

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 30

Excused: Senators Delvin and Hewitt - 2

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 6030 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.
Senator Parlette spoke against passage of the bill.

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6030 was deferred and the bill held its place on the third reading calendar.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 10, 2007."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 10, 2007.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

SECOND READING

SENATE BILL NO. 5115, by Senators Kilmer, Kastama, Kauffman, Marr, Shin, Eide, Rasmussen and Regala

Expanding competitive local infrastructure financing tools projects.

MOTION

On motion of Senator Kilmer, Second Substitute Senate Bill No. 5115 was substituted for Senate Bill No. 5115 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Kilmer moved that the following striking amendment by Senator Kilmer and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.102.020 and 2006 c 181 s 102 are each amended to read as follows:

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

(1) "Annual state contribution limit" means ((~~five~~)) ten million dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Base year" means the first calendar year following the ((~~creation of a revenue development area. For a local government that meets the requirements of RCW 39.102.040(2), "base year" is the calendar year after it amends its ordinance as provided in RCW 39.102.040(2)~~)) calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award, provided that the approval is granted before October 15th. If approval by the board is received on or after October 15th but on or before December 31st, the "base year" is the second calendar year following the calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award.

(4) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(5) "Demonstration project" means one of the following projects:

(a) Bellingham waterfront redevelopment project;

(b) Spokane river district project at Liberty Lake; and

(c) Vancouver riverwest project.

(6) "Department" means the department of revenue.

(7) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(8) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the revenue development area was ((~~created~~)) approved by the board, except that if a local government reduces the rate of such tax after the revenue development area was ((~~created~~)) approved by the board, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(9) "Local excise tax allocation revenue" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the revenue development area over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government ((~~creates~~)) adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the ((~~creation~~)) approval of the revenue development area ((~~within the boundaries of the area that became the revenue development area~~)) by the board, "local excise tax allocation revenue" means the entire amount of local excise taxes received by the sponsoring local government during a calendar year period beginning with the calendar year immediately following the ((~~creation~~)) approval of the revenue development area by the board and continuing with each measurement year thereafter; and

(b) For revenue development areas ((~~created~~)) approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state ((~~by July 1, 2006,~~)) during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "local excise tax allocation revenue" means the amount of local excise taxes received by the sponsoring local government during the measurement year from taxable activity within the revenue development area over and above an amount of local excise taxes received by the sponsoring local government during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective ((~~July 1, 2007~~)) in 2008. The amount of base year adjustment determined by the department is final.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, ((~~dedicated~~)) other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds

authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis as provided in section 15 of this act, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13)(a) "Revenues from local public sources" means ((~~federal and private monetary contributions, amounts of local excise tax allocation revenues, and amounts of local property tax allocation revenues dedicated by participating taxing districts and participating local governments for local infrastructure financing~~)):

(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(14) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(15) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure state and local excise tax allocation revenues.

(16) "Ordinance" means any appropriate method of taking legislative action by a local government.

(17) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(18) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(19)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

(A) The placement of new construction, improvements((~~, or both~~)) to property, or both, on the assessment roll((~~s after the revenue development area is created~~)), where the new construction ((~~or~~)) and improvements ((~~occur entirely after the revenue development area is created~~)) are initiated after the revenue development area is approved by the board;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;

(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.

(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) ((~~If any new construction added to the assessment rolls consists of entire buildings, "property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of the buildings in the years following their initial placement on the assessment rolls.~~

(c) "Property tax allocation revenue value" does not include any increase in the assessed value of improvements to property or new construction that do not consist of an entire building, occurring after their initial placement on the assessment rolls~~)) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased ((~~due to new construction or improvements to property occurring after the revenue development area is created~~)) as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(20) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

(21) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(22) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property

for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; ((~~and~~)) (f) administrative expenses and feasibility studies reasonably necessary and related to these costs((~~, including related~~)); and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(23) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(24) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area for taxes levied in the year in which the revenue development area is ((~~created~~)) adopted for collection in the following year, plus one hundred percent of any increase in the assessed value of real property located within a revenue development area that is placed on the assessment rolls after the revenue development area is ((~~created~~)) adopted, less the property tax allocation revenue value.

(25) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(26) "Revenue development area" means the geographic area ((~~created~~)) adopted by a sponsoring local government and approved by the board, from which local excise and property tax allocation revenues are derived for local infrastructure financing.

(27) "Small business" has the same meaning as provided in RCW 19.85.020.

(28) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that ((~~creates~~)) adopts a revenue development area and applies to the board to use local infrastructure financing.

(29) "State contribution" means the lesser of:

(a) One million dollars;

(b) The state excise tax allocation revenue and state property tax allocation revenue received by the state during the preceding calendar year;

(c) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis as provided in section 15 of this act, or both; or

(d) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040.

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above the amount of state excise taxes received by the state during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government ((~~creates~~)) adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the ((~~creation~~)) approval of the revenue development area ((~~within the boundaries of the area that became the revenue development area~~)) by the board, "state excise tax allocation revenue" means the entire amount of state excise taxes received by the state during a calendar year period beginning with the calendar year immediately following the ((~~creation~~)) approval of the revenue development area by the board and continuing with each measurement year thereafter; and

(b) For revenue development areas ((~~created~~)) approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state ((~~by July 1, 2006,~~)) during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "state excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above an amount of state excise taxes received by the state during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective ((~~July 1, 2007~~)) in 2008. The amount of base year adjustment determined by the department is final.

(32) "State property tax allocation revenue" means those tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value.

(33) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

Sec. 2. RCW 39.102.040 and 2006 c 181 s 202 are each amended to read as follows:

(1) Prior to applying to the board to use local infrastructure financing, a sponsoring local government shall:

(a) Designate a revenue development area within the limitations in RCW 39.102.060;

(b) Certify that the conditions in RCW 39.102.070 are met;

(c) Complete the process in RCW 39.102.080;

(d) Provide public notice as required in RCW 39.102.100; and

(e) Pass an ordinance adopting the revenue development area as required in RCW 39.102.090.

(2) Any local government that has created an increment area under chapter 39.89 RCW ((~~that~~)) and has not issued bonds to finance any public improvement ((~~shall be~~)) may apply to the board and have its increment area considered for approval as a revenue development area under this chapter without ((~~creating~~)) adopting a new ((~~increment~~)) revenue development area under RCW 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1) and otherwise meets the conditions and limitations under this chapter.

(3) As a condition to imposing a sales and use tax under RCW 82.14.475, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under RCW 82.14.475, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under RCW 82.14.475, the anticipated

effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in RCW 39.102.090. A notice of approval to use local infrastructure financing shall contain a project award that represents the maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4)(a) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2007 for a competitive project award, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve ((~~qualified~~)) competitive project((~~s, up to the annual state contribution limit~~)) awards from competitive applications submitted by the 2007 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2007. For projects not approved by the board in 2007, sponsoring and cosponsoring local governments may apply again to the board in 2008 for approval of a project.

(b) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2008 for a competitive project award, must submit completed applications to the board no later than July 1, 2008. By September 18, 2008, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2008 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2008, except as provided in RCW 39.102.050(2). For projects not approved in 2008, sponsoring and cosponsoring local governments may apply again to the board for approval of a project.

(c) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2009 for a competitive project award, must submit completed applications to the board no later than July 1, 2009. By September 15, 2009, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2009 deadline.

(d) Except as provided in RCW 39.102.050(2), a total of no more than seven million five hundred thousand dollars in competitive project awards shall be approved for local infrastructure financing. ((~~Except as provided in RCW 39.102.050, approvals shall be based on the following criteria~~))

(e) In evaluating applications for a competitive project award, the board shall develop criteria, and the relative weight to be assigned criteria, in conjunction with the Washington state economic development commission. The criteria developed and applied in the application evaluation and approval process shall include the following and such other criteria as the board and the commission consider appropriate:

((~~(a)~~)) (i) The ((~~project~~)) project's potential to enhance the sponsoring local government's regional and/or international competitiveness;

((~~(b)~~)) (ii) The project's ability to encourage mixed use development and the redevelopment of a geographic area;

((~~(c)~~)) (iii) Achieving an overall distribution of projects statewide that reflect geographic diversity;

((~~(d)~~)) (iv) The estimated wages and benefits for the project is greater than the average labor market area;

((~~(e)~~)) (v) The estimated state and local net employment change over the life of the project;

((~~(f)~~)) (vi) The estimated state and local net property tax change over the life of the project; ((~~and~~))

((~~(g)~~)) (vii) The estimated state and local sales and use tax increase over the life of the project; and

(viii) Evidence that the project will not contribute to sprawl and that the project's revenue development area either has or is immediately adjacent to an area that has a rich transportation infrastructure to serve it, including: State highways, arterials, collectors and distributors, and other road capacity sufficient to meet the traffic needs and traffic congestion levels anticipated for the new development; and public transit and park and ride lots sufficient to meet the transport needs of a significant portion of the anticipated workforce in the revenue development area, special needs services, and other transportation services.

(5) ((~~A revenue development area is considered created when the sponsoring local government, including any cosponsoring local government, has adopted an ordinance creating the revenue development area and the board has approved the sponsoring local government to use local infrastructure financing. If a sponsoring local government receives approval from the board after the fifteenth day of October to use local infrastructure financing, the revenue development area is considered created in the calendar year following the approval.~~)) Once the board has approved the sponsoring local government, and any cosponsoring local governments, to use local infrastructure financing, notification ((~~shall~~)) must be sent by the board to the sponsoring local government, and any cosponsoring local governments, authorizing the sponsoring local government, and any cosponsoring local governments, to impose the local sales and use tax authorized under RCW 82.14.475, subject to the conditions in RCW 82.14.475.

Sec. 3. RCW 39.102.050 and 2006 c 181 s 203 are each amended to read as follows:

(1) In addition to a competitive process, demonstration projects are provided to determine the feasibility of the local infrastructure financing tool. Notwithstanding RCW 39.102.040, the board shall approve each demonstration project ((~~before approving any other application~~)). Demonstration project applications must be received by the board no later than July 1, 2008. The Bellingham waterfront redevelopment project award shall not exceed one million dollars per year, the Spokane river district project award shall not exceed one million dollars per year, and the Vancouver riverwest project award shall not exceed five hundred thousand dollars per year. The board shall approve by September 15, 2007, demonstration project applications submitted no later than July 1, 2007. The board shall approve by September 18, 2008, demonstration project applications submitted by July 1, 2008.

(2) If before board approval of the final competitive project award in 2008, a demonstration project has not received approval by the board, the state dollars set aside for the demonstration project in subsection (1) of this section shall be available for the competitive application process. If a demonstration project has received a partial award before the approval of the final competitive project award, the remaining state dollars set aside for the demonstration project in subsection (1) of this section shall be available for the competitive process.

Sec. 4. RCW 39.102.060 and 2006 c 181 s 204 are each amended to read as follows:

The designation of a revenue development area is subject to the following limitations:

(1) The taxable real property within the revenue development area boundaries may not exceed one billion dollars in assessed value at the time the revenue development area is designated;

(2) ((~~The average assessed value per square foot of taxable land within the revenue development area boundaries may not exceed seventy dollars at the time the revenue development area is designated;~~

~~(3) No more than one revenue development area may be created in a county~~)) No revenue development area shall have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW or any part of another revenue development area created under this chapter;

((~~(4)~~)) (3) A revenue development area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revenue development area;

((~~(5) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;~~

~~(6)~~)) (4) The public improvements financed through local infrastructure financing must be located in the revenue development area;

((~~(7)~~)) (5) A revenue development area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government, including any cosponsoring local government, at the time the revenue development area is designated;

((~~(8)~~)) (6) The boundaries of the revenue development area shall not be changed for the time period that local infrastructure financing is used; and

((~~(9)~~)) (7) A revenue development area cannot include any part of an increment area created under chapter 39.89 RCW, except those increment areas created prior to January 1, 2006.

Sec. 5. RCW 39.102.070 and 2006 c 181 s 205 are each amended to read as follows:

The use of local infrastructure financing under this chapter is subject to the following conditions:

(1) No funds may be used to finance, design, acquire, construct, equip, operate, maintain, remodel, repair, or reequip public facilities funded with taxes collected under RCW 82.14.048;

(2)(a) Except as provided in (b) of this subsection no funds may be used for public improvements other than projects identified within the capital facilities, utilities, housing, or transportation element of a comprehensive plan required under chapter 36.70A RCW;

(b) Funds may be used for public improvements that are historical preservation activities as defined in RCW 39.89.020;

(3) The public improvements proposed to be financed in whole or in part using local infrastructure financing are expected to encourage private development within the revenue development area and to increase the fair market value of real property within the revenue development area;

(4) A sponsoring local government, participating local government, or participating taxing district has entered or expects to enter into a contract with a private developer relating to the development of private improvements within the revenue development area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the revenue development area;

(5) Private development that is anticipated to occur within the revenue development area, as a result of the public improvements, will be consistent with the county-wide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(6) The governing body of the sponsoring local government, and any cosponsoring local government, must make a finding that local infrastructure financing:

(a) Is not expected to be used for the purpose of relocating a business from outside the revenue development area, but within this state, into the revenue development area; ((~~and~~))

(b) Will improve the viability of existing business entities within the revenue development area; and

(c) Will be used in a manner that will not encourage sprawl and will support development in, or adjacent to, areas with rich transportation infrastructure including: State highways, arterials, collectors and distributors, and other road capacity sufficient to meet the traffic needs and traffic congestion levels anticipated for the new development; and public transit and park and ride lots sufficient to meet the transport needs of a significant portion of the anticipated workforce in the revenue development area, special needs services, and other transportation services;

(7) The governing body of the sponsoring local government, and any cosponsoring local government, finds that the public improvements proposed to be financed in whole or in part using local infrastructure financing are reasonably likely to:

(a) Increase private residential and commercial investment within the revenue development area;

(b) Increase employment within the revenue development area;

(c) Improve the viability of any existing communities that are based on mixed-use development within the revenue development area; and

(d) Generate, over the period of time that the local option sales and use tax will be imposed under RCW 82.14.475, state excise tax allocation revenues and state property tax allocation revenues derived from the revenue development area that are equal to or greater than the respective state contributions made under this chapter;

(8) The sponsoring local government may only use local infrastructure financing in areas deemed in need of economic development or redevelopment within boundaries of the sponsoring local government.

Sec. 6. RCW 39.102.090 and 2006 c 181 s 207 are each amended to read as follows:

(1) To ((~~create~~)) adopt a revenue development area, a sponsoring local government, and any cosponsoring local government, must adopt an ordinance establishing the revenue development area that:

(a) Describes the public improvements proposed to be made in the revenue development area;

(b) Describes the boundaries of the revenue development area, subject to the limitations in RCW 39.102.060;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local infrastructure financing;

(d) Estimates the time during which local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources are to be used for local infrastructure financing;

(e) Provides the date when the use of local excise tax allocation revenues and local property tax allocation revenues will commence; and

(f) Finds that the conditions in RCW 39.102.070 are met and the findings in RCW 39.102.080 are complete.

(2) The sponsoring local government, and any cosponsoring local government, must hold a public hearing on the proposed financing of the public improvements in whole or in part with local infrastructure financing ((~~at least thirty days~~)) before passage of the ordinance establishing the revenue development area. The public hearing may be held by either the governing body of the sponsoring local government and the governing body of any cosponsoring local government, or by a committee of those governing bodies that includes at least a majority of the whole governing body or bodies. The public hearing is subject to the notice requirements in RCW 39.102.100.

(3) The sponsoring local government, and any cosponsoring local government, shall deliver a certified copy of the adopted ordinance to the county treasurer, the governing body of each participating local government and participating taxing district within which the revenue development area is located, the board, and the department.

Sec. 7. RCW 39.102.110 and 2006 c 181 s 301 are each amended to read as follows:

(1) A sponsoring local government or participating local government that has received approval by the board to use local infrastructure financing may use annually its local excise tax allocation revenues to finance public improvements in the revenue development area financed in whole or in part by local infrastructure financing. The use of local excise tax allocation revenues dedicated by participating local governments must cease ((~~when such allocation revenues are no longer necessary or obligated to pay bonds issued to finance the public improvements in the revenue development area~~)) on the date specified in the written agreement required in RCW 39.102.080(1), or if no date is specified then the date when the local tax under RCW 82.14.475 expires. Any participating local government is authorized to dedicate local excise tax allocation

revenues to the sponsoring local government as authorized in RCW 39.102.080(1).

(2) A sponsoring local government shall provide the board accurate information describing the geographical boundaries of the revenue development area at the time of application. The information shall be provided in an electronic format or manner as prescribed by the department. The sponsoring local government shall ensure that the boundary information provided to the board and department is kept current.

(3) In the event a city annexes a county area located within a county-sponsored revenue development area, the city shall remit to the county the portion of the local excise tax allocation revenue that the county would have received had the area not been annexed to the county. The city shall remit such revenues until such time as the bonds issued under RCW 39.102.150 are retired.

Sec. 8. RCW 39.102.120 and 2006 c 181 s 302 are each amended to read as follows:

(1) Commencing in the second calendar year following ((~~the passage of the ordinance creating a revenue development area and authorizing the use of local infrastructure financing~~)) board approval of a revenue development area, the county treasurer shall distribute receipts from regular taxes imposed on real property located in the revenue development area as follows:

(a) Each participating taxing district and the sponsoring local government shall receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local infrastructure financing project in the taxing district, or upon the total assessed value of real property in the taxing district, whichever is smaller; and

(b) The sponsoring local government shall receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revenue development area. However, if there is no property tax allocation revenue value, the sponsoring local government shall not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revenue development area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure financing.

(2) The county assessor shall allocate any increase in the assessed value of real property occurring in the revenue development area to the property tax allocation revenue value and property tax allocation revenue base value as appropriate. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The apportionment of increases in assessed valuation in a revenue development area, and the associated distribution to the sponsoring local government of receipts from regular property taxes that are imposed on the property tax allocation revenue value, must cease when property tax allocation revenues are no longer ((~~necessary or~~)) obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues derived from regular property taxes and earnings on these tax allocation revenues, remaining at the time the allocation of tax receipts terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revenue development area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revenue development area of portions of the local regular property taxes levied by or for each taxing district upon the property tax allocation revenue value within that revenue development area is declared to be a public purpose of and benefit to each such taxing district.

(5) The allocation of local property tax allocation revenues pursuant to this section shall not affect or be deemed to affect the rate of taxes levied by or within any taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to those revenue development areas that include any part of an increment area created under chapter 39.89 RCW.

Sec. 9. RCW 82.14.475 and 2006 c 181 s 401 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government. The rate of tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The rate of tax may be changed only on the first day of a fiscal year as needed. Notice of rate changes must be provided to the department on the first day of March to be effective on July 1st of the next fiscal year.

(2) The tax authorized under subsection (1) of this section shall be credited against the state taxes imposed under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and shall remit the taxes as provided in RCW 82.14.060.

(3)(a) No tax may be imposed under the authority of this section:

(i) Before July 1, 2008;

(ii) Before approval by the board under RCW 39.102.040; and

(iii) ((~~Except as provided in (b) of this subsection, unless~~)) Before the sponsoring local government has received ((~~and dedicated to the payment of bonds authorized in RCW 39.102.150, in whole or in part, both~~)) local excise tax allocation revenues ((~~and~~)), local property tax allocation revenues, or both, during the preceding calendar year.

(b) ((~~The requirement to receive local property tax allocation revenues under (a) of this subsection is waived if the revenue development area coincides with or is contained entirely within the boundaries of an increment area adopted by a local government under the authority of chapter 39.89 RCW for the purposes of utilizing community revitalization financing.~~

~~(c)~~)) The tax imposed under this section shall expire when the bonds issued under the authority of RCW 39.102.150 are retired, but not more than twenty-five years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year shall not exceed the amount of the state contribution;

(c) The tax shall cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) ((~~Except when the requirement to receive local property tax allocation revenues is waived as provided in subsection (3)(b) of this section, neither the local excise tax allocation revenues nor the local property tax allocation revenues can be more than eighty percent of the total local funds as described in RCW 39.102.020(29)(c);~~

~~(c)~~)) The tax shall be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

((~~(f)~~)) (e) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection shall belong to the state of Washington.

(5) If a county and city cosponsor a revenue development area, the combined rates of the city and county tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The combined amount of distributions received by both the city and county may not exceed the state contribution.

(6) The department shall determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (8) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and shall not be used to challenge the validity of any tax imposed under this section. The department shall remit any tax receipts in excess of the amounts specified in subsection (4)(c) of this section to the state treasurer who shall deposit the money in the general fund.

(7) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(8) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year shall be equal to the state contribution and shall be no more than the total local funds as described in RCW 39.102.020(29)(c). The department shall consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government shall not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department shall not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (4) of this section.

(9) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than ((~~five~~)) ten million dollars. ((~~The tax distributions shall be available to the sponsoring local government, and any cosponsoring local government, imposing a tax under this section only as long as the sponsoring local government has outstanding indebtedness under RCW 39.102.150.~~))

(10) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(11) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section shall be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(12) Subject to section 15 of this act, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(13) The tax imposed under the authority of this section shall cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue bonds under the authority of RCW 39.102.150 by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

Sec. 10. RCW 39.102.140 and 2006 c 181 s 403 are each amended to read as follows:

(1) A sponsoring local government shall provide a report to the board and the department by March 1st of each year. The report shall contain the following information:

(a) The amount of local excise tax allocation revenues, ((~~and~~)) local property tax allocation revenues, other revenues from local public sources, and taxes under RCW 82.14.475((~~, and revenues from local public sources~~)) received by the sponsoring local government during the preceding calendar year that were dedicated to pay the public improvements financed in whole or in part with local infrastructure financing, and a summary of how these revenues were expended;

(b) The names of any businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(c) The total number of permanent jobs created in the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(d) The average wages and benefits received by all employees of businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing; and

(e) That the sponsoring local government is in compliance with RCW 39.102.070.

(2) The board shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by sponsoring local governments and financed in whole or in part with local infrastructure financing and it shall also include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

Sec. 11. RCW 39.102.150 and 2006 c 181 s 501 are each amended to read as follows:

(1) A sponsoring local government that has designated a revenue development area and been authorized the use of local infrastructure financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local excise tax allocation revenues, local property tax allocation revenues, and sales and use taxes imposed under the authority of RCW 82.14.475 that it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government and authorizing the use of local infrastructure financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by RCW ((~~39.102.090~~)) 39.102.100.

(2)(a) Except as provided in (b) of this subsection, the general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local

government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(b) A sponsoring local government that issues bonds under this section shall not pledge any money received from the state of Washington for the payment of such bonds, other than the local sales and use taxes imposed under the authority of RCW 82.14.475 and collected by the department.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government designating a revenue development area and authorizing the use of local infrastructure financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the revenue development area.

(4) Bonds issued under this section shall be authorized by ordinance of the governing body of the sponsoring local government and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local excise tax allocation revenues and local property tax allocation revenues derived from property or business activity within the revenue development area containing the public improvements funded by the bonds, such payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under RCW 82.14.475, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under RCW 82.14.475 are subject to the use restriction in RCW 39.102.130.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 12. RCW 39.102.130 and 2006 c 181 s 402 are each amended to read as follows:

Money collected from the taxes imposed under RCW 82.14.475 ((~~shall~~)) may be used only for the purpose of ((~~principal and interest payments on bonds issued under the authority of RCW 39.102.150~~)) paying debt service on bonds issued under the authority of RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis as provided in section 15 of this act, or both.

NEW SECTION. **Sec. 13.** RCW 39.102.180 (General indebtedness, general obligation bonds--Authority--Security) and 2006 c 181 s 504 are each repealed.

NEW SECTION. **Sec. 14.** A new section is added to chapter 39.102 RCW to read as follows:

The department of revenue and the community economic revitalization board may adopt any rules under chapter 34.05 RCW they consider necessary for the administration of this chapter.

NEW SECTION. **Sec. 15.** A new section is added to chapter 39.102 RCW to read as follows:

Local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, that are dedicated to local infrastructure financing, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, may not be used to pay for public improvement costs on a pay-as-you-go basis after the date that the sponsoring local government that issued the bonds as provided in RCW 39.102.150 is required to begin paying debt service on those bonds.

NEW SECTION. **Sec. 16.** This act applies retroactively as well as prospectively.

NEW SECTION. **Sec. 17.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 18.** This act expires June 30, 2039."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kilmer and others to Second Substitute Senate Bill No. 5115.

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

MOTION

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

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "amending RCW 39.102.020, 39.102.040, 39.102.050, 39.102.060, 39.102.070, 39.102.090, 39.102.110, 39.102.120, 82.14.475, 39.102.140, 39.102.150, and 39.102.130; adding new sections to chapter 39.102 RCW; creating a new section; repealing RCW 39.102.180; and providing an expiration date."

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5115 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5115.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5115 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Delvin and Hewitt - 2

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5115, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5317, by Senators Kohl-Welles, Brandland, Hargrove, Stevens, Regala and McAuliffe

Creating additional safeguards for child care.

MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5317 was substituted for Senate Bill No. 5317 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles, Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.005 and 2006 c 265 s 101 are each amended to read as follows:

(1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that the early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development.

(3) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing child care providers with known information regarding applicants' sexual misconduct or other abusive conduct;

(iii) Providing parents with child care licensing complaint histories regarding child care providers; and

(iv) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

((~~(c)~~)) (f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

((~~(f)~~)) (g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

(4) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

Sec. 2. RCW 43.215.010 and 2006 c 265 s 102 are each amended to read as follows:

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Department" means the department of early learning.

(((~~(4)~~))) (5) "Director" means the director of the department.

(((~~(5)~~))) (6) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(7) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(((~~(6)~~))) (8) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(((~~(7)~~))) (9) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

Sec. 3. RCW 43.215.200 and 2006 c 265 s 301 are each amended to read as follows:

It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter((~~:~~

~~The minimum requirements shall be limited to:~~

~~(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;~~

~~(b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children. In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children. Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose;~~

~~(c) The number of qualified persons required to render the type of care for which an agency seeks a license;~~

~~(d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;~~

~~(e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;~~

~~(f) The financial ability of an agency to comply with minimum requirements established under this chapter; and~~

~~(g) The maintenance of records pertaining to the care of children~~));

(3) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure;

(4) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(((~~(4)~~))) (5) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(((~~(5)~~))) (6) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(((~~(6)~~))) (7) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

(((~~(7)~~))) (8) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

NEW SECTION. **Sec. 4.** MINIMUM REQUIREMENTS FOR LICENSING.Applications for licensure shall require, at a minimum, the following information:

(1) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(2) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

(3) The number of qualified persons required to render the type of care for which an agency seeks a license;

(4) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;

(5) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;

(6) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(7) The maintenance of records pertaining to the care of children.

NEW SECTION. **Sec. 5.** CHARACTER, SUITABILITY, AND COMPETENCE. (1) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider all founded child abuse and neglect history information regarding a prospective child care provider. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(2) In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children, shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b) The fingerprint criminal history record checks shall be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record.

(c) The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose.

Sec. 6. RCW 43.215.525 and 2006 c 209 s 11 are each amended to read as follows:

(1) Every child day-care center and family day-care provider shall prominently post the following items, clearly visible to parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW ((~~74.15.310~~)) 43.215.520;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose((~~, upon request,~~)) the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day-care center or family day-care provider that result in an enforcement action. Information may be posted:

(a) On a web site; or

(b) In a physical location that is easily accessed by parents and potential employers.

(3) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 7. RCW 43.215.530 and 2006 c 209 s 12 are each amended to read as follows:

(1) Every child day-care center and family day-care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day-care centers and family day-care providers ((~~consistent with chapter 42.56 RCW~~)). The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(3) The department may make available on a publicly accessible web site all inspection reports and notices of enforcement actions involving child day-care centers and family day-care providers. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec. 8.** PARENTAL NOTIFICATION. The department and an agency must, at the first opportunity but in all cases within forty-eight hours of receiving a report alleging sexual misconduct or abuse by an agency employee, notify the parents of a child alleged to be the victim, target, or recipient of the misconduct or abuse. The department and an agency shall provide parents with information regarding their rights under the public records act, chapter 42.56 RCW, to request the public records regarding the employee. This information shall be provided to all parents on an annual basis.

NEW SECTION. **Sec. 9.** REPORTING ACTIONS--POSTING ON WEB SITE. For the purposes of reporting actions taken against agency licensees, the following actions shall be posted to the department's web site accessible by the public: Suspension, surrender, revocation, denial, stayed suspension, or reinstatement of a license, and any written reprimand related to abuse and sexual misconduct or abuse.

Sec. 10. RCW 43.215.535 and 2005 c 473 s 7 are each amended to read as follows:

(1) Every licensed child day-care center shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day-care center shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW 74.15.130 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day-care centers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day-care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day-care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a child enrolled in family day care and keep a copy of the notice to each parent on file. Family day-care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b)((~~,~~)) or (c)((~~, or (d)~~)) of this subsection.

(b) Any licensed family day-care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW 74.15.130 if the licensee fails to ((~~notify the department when coverage has been terminated as required under (b)~~)) comply with the requirements of this subsection.

(e) A family day-care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

NEW SECTION. **Sec. 11.** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 12.** Sections 4, 5, 8, and 9 of this act are each added to chapter 43.215 RCW."

Senator Kohl-Welles spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles, Hargrove and Stevens to Substitute Senate Bill No. 5317.

The motion by Senator Kohl-Welles carried and the striking

amendment was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "safety;" strike the remainder of the title and insert "amending RCW 43.215.005, 43.215.010, 43.215.200, 43.215.525, 43.215.530, and 43.215.535; adding new sections to chapter 43.215 RCW; creating a new section; and prescribing penalties."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 5317 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5317.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5317 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Delvin and Hewitt - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5317, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5640, by Senators Kauffman, Fairley, Prentice, Swecker, Rockefeller, Fraser, Kohl-Welles, Shin, Rasmussen and Kline

Authorizing tribal governments to participate in public employees' benefits board programs.

The measure was read the second time.

MOTION

On motion of Senator Kauffman, the rules were suspended, Senate Bill No. 5640 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5640.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5640 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Honeyford and McCaslin - 2

Excused: Senators Delvin and Hewitt - 2

SENATE BILL NO. 5640, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5711, by Senators Parlette, Delvin and Shin

Expanding the offender score to include offenses concerning the influence of intoxicating liquor or any drug.

The measure was read the second time.

MOTION

On motion of Senator Parlette, the rules were suspended, Senate Bill No. 5711 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5711.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5711 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Delvin - 1

SENATE BILL NO. 5711, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5732, by Senators Fraser, Swecker, Fairley, Haugen and Clements

Revising restrictions on the county treasurer regarding receipting current year taxes.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 5732 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Rockefeller was excused.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5732.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5732 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Benton and Delvin - 2

SENATE BILL NO. 5732, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5895, by Senators Fraser, Swecker, Tom, Shin, Kline, McCaslin, Kilmer, Jacobsen, Delvin and Honeyford

Regarding sellers' disclosures for residential real property sales.

MOTIONS

On motion of Senator Weinstein, Substitute Senate Bill No. 5895 was substituted for Senate Bill No. 5895 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Weinstein, the rules were suspended, Substitute Senate Bill No. 5895 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Weinstein and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5895.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5895 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 39

Voting nay: Senators Benton, Hewitt, Holmquist, Morton, Parlette, Roach, Schoesler, Stevens and Zarelli - 9

Excused: Senator Delvin - 1

SUBSTITUTE SENATE BILL NO. 5895, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5987, by Senators Clements, Carrell, Marr, Holmquist, Schoesler and Rasmussen

Increasing penalties for gang-related offenses.

MOTIONS

On motion of Senator Clements, Substitute Senate Bill No. 5987 was substituted for Senate Bill No. 5987 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Clements, the rules were suspended, Substitute Senate Bill No. 5987 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5987.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5987 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Delvin - 1

SUBSTITUTE SENATE BILL NO. 5987, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:06 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:43 a.m. by President Owen.

SECOND READING

SENATE BILL NO. 5070, by Senators Carrell, Regala, Hargrove, Kline, Weinstein, Stevens, Brandland, Parlette, McCaslin, Kastama, Holmquist, Zarelli, Pridemore, Schoesler, Clements, Rasmussen, Swecker, Roach, Franklin, Delvin, Sheldon, Eide, Spanel, Hewitt, Hatfield, Keiser, Pflug, McAuliffe, Berkey, Haugen, Fairley, Murray, Tom, Kohl-Welles, Shin and Kilmer

Changing provisions affecting offenders who are leaving confinement.

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 5070 was substituted for Senate Bill No. 5070 and the

second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove, Carrell and Regala be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The people of the state of Washington expect to live in safe communities in which the threat of crime is minimized. Attempting to keep communities safe by building more prisons and paying the costs of incarceration has proven to be expensive to taxpayers. Incarceration is a necessary consequence for some offenders, however, the vast majority of those offenders will eventually return to their communities. Many of these former offenders will not have had the opportunity to address the deficiencies that may have contributed to their criminal behavior. Persons who do not have basic literacy and job skills, or who are ill-equipped to make the behavioral changes necessary to successfully function in the community, have a high risk of reoffense. Recidivism represents serious costs to victims, both financial and nonmonetary in nature, and also burdens state and local governments with those offenders who recycle through the criminal justice system.

The legislature believes that recidivism can be reduced and a substantial cost savings can be realized by utilizing evidence-based, research-based, and promising programs to address offender deficits, developing and better coordinating the reentry efforts of state and local governments and local communities. Research shows that if quality assurances are adhered to, implementing an optimal portfolio of evidence-based programming options for offenders who are willing to take advantage of such programs can have a notable impact on recidivism.

While the legislature recognizes that recidivism cannot be eliminated and that a significant number of offenders are unwilling or unable to work to develop the tools necessary to successfully reintegrate into society, the interests of the public overall are better served by better preparing offenders while incarcerated, and continuing those efforts for those recently released from prison or jail, for successful, productive, and healthy transitions to their communities. Educational, employment, and treatment opportunities should be designed to address individual deficits and ideally give offenders the ability to function in society. In order to foster reintegration, this act recognizes the importance of a strong partnership between the department of corrections, local governments, law enforcement, social service providers, and interested members of communities across our state.

PART I - COMMUNITY TRANSITION COORDINATION NETWORKS

NEW SECTION. **Sec. 101.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) A "community transition coordination network" is a system of coordination that facilitates partnerships between supervision and service providers. It is anticipated that an offender who is released to the community will be able to utilize a community transition coordination network to be connected directly to the supervision and/or services needed for successful reentry.

(2) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(3) An "individual reentry plan" means the plan to prepare an offender for release into the community. A reentry plan is developed collaboratively between the supervising authority and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offenders' risks and needs. An individual reentry plan describes actions that must occur to prepare individual offenders for release from jail and specifies the supervision and/or services he or she will experience in the community, taking into account no contact provisions of the judgment and sentence. An individual reentry plan must be updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(4) "Local community policing and supervision programs" include probation, work release, jails, and other programs operated by local police, courts, or local correctional agencies.

(5) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(6) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(7) "Supervising authority" means the agency or entity that has the responsibility for supervising an offender.

NEW SECTION. **Sec. 102.** (1) Each county or group of counties shall conduct an inventory of the services and resources available in the county or group of counties to assist offenders in reentering the community.

(2) In conducting its inventory, the county or group of counties should consult with the following:

(a) The department of corrections, including community corrections officers;

(b) The department of social and health services in applicable program areas;

(c) Representatives from county human services departments and, where applicable, multicounty regional support networks;

(d) Local public health jurisdictions;

(e) City and county law enforcement;

(f) Local probation/supervision programs;

(g) Local community and technical colleges;

(h) The local worksource center operated under the statewide workforce investment system;

(i) Faith-based and nonprofit organizations providing assistance to offenders;

(j) Housing providers;

(k) Crime victims service providers; and

(l) Other community stakeholders interested in reentry efforts.

(3) The inventory must include, but is not limited to:

(a) A list of programs available through the entities listed in subsection (2) of this section and services currently available in the community for offenders including, but not limited to, housing assistance, employment assistance, education, vocational training, parenting education, financial literacy, treatment for substance abuse, mental health, anger management, life skills training, specialized treatment programs such as batterers treatment and sex offender treatment, and any other service or program that will assist the former offender to successfully transition into the community; and

(b) An indication of the availability of community representatives or volunteers to assist the offender with his or her transition.

(4) No later than January 1, 2008, each county or group of counties shall present its inventory to the policy advisory committee convened in section 103(8) of this act.

NEW SECTION. **Sec. 103.** (1) The department of community, trade, and economic development shall establish a community transition coordination network pilot program for the purpose of awarding grants to counties or groups of counties for implementing coordinated reentry efforts for offenders returning to the community. Grant awards are subject to the availability of amounts appropriated for this specific purpose.

(2) By September 1, 2007, the Washington state institute for public policy shall, in consultation with the department of community, trade, and economic development, develop criteria for the counties in conducting its evaluation as directed by subsection (6)(c) of this section.

(3) Effective February 1, 2008, any county or group of counties may apply for participation in the community transition

coordination network pilot program by submitting a proposal for a community transition coordination network.

(4) A proposal for a community transition coordination network initiated under this section must be collaborative in nature and must seek locally appropriate evidence-based or research-based solutions and promising practices utilizing the participation of public and private entities or programs to support successful, community-based offender reentry.

(5) In developing a proposal for a community transition coordination network, counties or groups of counties and the department of corrections shall collaborate in addressing:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships between the department of corrections and local community policing and supervision programs to facilitate supervision of offenders under the respective jurisdictions of each, as well as timely and effective responses to an offender's failure to comply with the terms of supervision.

(6) A proposal for a community transition coordination network must include:

(a) Descriptions of collaboration and coordination between local community policing and supervision programs and those agencies and entities identified in the inventory conducted pursuant to section 102 of this act to address the risks and needs of offenders under a participating county or city misdemeanant probation or other supervision program including:

(i) A proposed method of assessing offenders to identify the offenders' risks and needs. Counties and cities are encouraged, where possible, to make use of assessment tools developed by the department of corrections in this regard;

(ii) A proposal for developing and/or maintaining an individual reentry plan for offenders;

(iii) Connecting offenders to services and resources that meet the offender's needs as identified in his or her individual reentry plan including the identification of community representatives or volunteers that may assist the offender with his or her transition; and

(iv) The communication of assessment information, individual reentry plans, and service information between parties involved with offender's reentry;

(b) Mechanisms to provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release and regardless of whether the offender was released from prison or jail. Mechanisms shall, at a minimum, provide for:

(i) Maintenance of the information gathered in section 102 of this act regarding services currently existing within the community that are available to offenders; and

(ii) Coordination of access to existing services with community providers and provision of information to offenders regarding how to access the various type of services and resources that are available in the community; and

(c) An evaluation of the county's or group of counties' readiness to implement a community transition coordination network including the social service needs of offenders in general, capacity of local facilities and resources to meet offenders' needs, and the cost to implement and maintain a community transition coordination network for the duration of the pilot project.

(7) The department of community, trade, and economic development shall review county applications for funding through the community transition coordination network pilot program and, no later than April 1, 2008, shall select up to four counties or groups of counties. In selecting pilot counties or regions, the department shall consider the extent to which the proposal:

(a) Addresses the requirements set out in subsection (6) of this section;

(b) Proposes effective partnerships and coordination between community policing and supervision programs, social service and treatment providers, and the department of corrections' community justice center, if a center is located in the county or region;

(c) Focuses on measurable outcomes such as increased employment and income, treatment objectives, maintenance of stable housing, and reduced recidivism;

(d) Contributes to the diversity of pilot programs, considering factors such as geographic location, size of county or region, and reentry services currently available. The department shall ensure that a grant is awarded to at least one rural county or group of counties and at least one county or group of counties where a community justice center operated by the department of corrections is located; and

(e) Is feasible, given the evaluation of the social service needs of offenders, the existing capacity of local facilities and resources to meet offenders' needs, and the cost to implement a community transition coordination network in the county or group of counties.

(8) The department of community, trade, and economic development shall convene a policy advisory committee composed of representatives from the senate, the house of representatives, the governor's office of financial management, the department of corrections, to include one representative who is a community corrections officer, the office of crime victims' advocacy, the Washington state association of counties, association of Washington cities, a nonprofit provider of reentry services, and an ex-offender who has discharged the terms of his or her sentence. The advisory committee shall meet no less than annually to receive status reports on the implementation of community transition coordination networks, review annual reports and the pilot project evaluations submitted pursuant to section 105 of this act, and identify evidence-based, research-based, and promising practices for other counties seeking to establish community transition coordination networks.

(9) Pilot networks established under this section shall extend for a period of four fiscal years, beginning July 1, 2008, and ending June 30, 2012.

(10) This section expires June 30, 2013.

NEW SECTION. **Sec. 104.** Nothing in section 103 of this act is intended to shift the supervising responsibility or sanctioning authority from one government entity to another or give a community transition coordination network oversight responsibility for those activities or allow imposition of civil liability where none existed previously.

NEW SECTION. **Sec. 105.** (1) It is the intent of the legislature to provide funding for this project.

(2) Counties receiving state funds must:

(a) Demonstrate the funds allocated pursuant to this section will be used only for those purposes in establishing and maintaining a community transition coordination network;

(b) Consult with the Washington state institute for public policy at the inception of the pilot project to refine appropriate outcome measures and data tracking systems;

(c) Submit to the advisory committee established in section 103(8) of this act an annual progress report by June 30th of each year of the pilot project to report on identified outcome measures and identify evidence-based, research-based, or promising practices;

(d) Cooperate with the Washington state institute for public policy at the completion of the pilot project to conduct an evaluation of the project.

(3) The Washington state institute for public policy shall provide direction to counties in refining appropriate outcome measures for the pilot projects and establishing data tracking systems. At the completion of the pilot project, the institute shall conduct an evaluation of the projects including the benefit-cost ratio of service delivery through a community transition coordination network, associated reductions in recidivism, and identification of evidence-based, research-based, or promising practices. The institute shall report to the governor and the legislature with the results of its evaluation no later than December 31, 2012.

(4) This section expires June 30, 2013.

NEW SECTION. **Sec. 106.** (1) The community transition coordination network account is created in the state treasury. The account may receive legislative appropriations, gifts, and grants. Moneys in the account may be spent only after

appropriation. Expenditures from the account may be used only for the purposes of section 103 of this act.

(2) This section expires June 30, 2013.

NEW SECTION. **Sec. 107.** Nothing in this act creates an entitlement for a county or group of counties to receive funding under the program created in section 103 of this act, nor an obligation for a county or group of counties to maintain a community transition coordination network established pursuant to section 103 of this act upon expiration of state funding.

Sec. 108. RCW 72.09.300 and 1996 c 232 s 7 are each amended to read as follows:

(1) Every county legislative authority shall by resolution or ordinance establish a local law and justice council. The county legislative authority shall determine the size and composition of the council, which shall include the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections and his or her designees. Officials designated may appoint representatives.

(2) A combination of counties may establish a local law and justice council by intergovernmental agreement. The agreement shall comply with the requirements of this section.

(3) The local law and justice council ((~~shall develop a local law and justice plan for the county. The council shall design the elements and scope of the plan, subject to final approval by the county legislative authority. The general intent of the plan shall include seeking means to maximize~~)) may address issues related to:

(a) Maximizing local resources including personnel and facilities, ((~~reduce~~)) reducing duplication of services, and ((~~share~~)) sharing resources between local and state government in order to accomplish local efficiencies without diminishing effectiveness((~~. The plan shall also include a section on jail management. This section may include the following elements:~~

~~(a) A description of current jail conditions, including whether the jail is overcrowded;~~

~~(b) A description of potential alternatives to incarceration;~~

~~(c) A description of current jail resources;~~

~~(d) A description of the jail population as it presently exists and how it is projected to change in the future;~~

~~(e) A description of projected future resource requirements;~~

~~(f) A proposed action plan, which shall include recommendations to maximize resources, maximize the use of intermediate sanctions, minimize overcrowding, avoid duplication of services, and effectively manage the jail and the offender population;~~

~~(g) A list of proposed advisory jail standards and methods to effect periodic quality assurance inspections of the jail;~~

~~(h) A proposed plan to collect, synthesize, and disseminate technical information concerning local criminal justice activities, facilities, and procedures;~~

~~(i) A description of existing and potential services for offenders including employment services, substance abuse treatment, mental health services, and housing referral services.~~

~~(4) The council may propose other elements of the plan, which shall be subject to review and approval by the county legislative authority, prior to their inclusion into the plan.~~

~~(5)~~)):

(b) Jail management;

(c) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases; and

(d) Partnerships between the department and local community policing and supervision programs to facilitate supervision of offenders under the respective jurisdictions of each and timely response to an offender's failure to comply with the terms of supervision.

(4) The county legislative authority may request technical assistance in ((~~developing or implementing the plan from~~)) coordinating services with other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.

(((~~6~~))) (5) Upon receiving a request for assistance from a county, the department may provide the requested assistance.

(((~~7~~))) (6) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department. ((~~The secretary may also appoint an advisory committee of local and state government officials to recommend policies and procedures relating to the state and local correctional systems and to assist the department in providing technical assistance to local governments. The committee shall include representatives of the county sheriffs, the police chiefs, the county prosecuting attorneys, the county and city legislative authorities, and the jail administrators. The secretary may contract with other state and local agencies and provide funding in order to provide the assistance requested by counties.~~

~~(8) The department shall establish a base level of state correctional services, which shall be determined and distributed in a consistent manner statewide. The department's contributions to any local government, approved pursuant to this section, shall not operate to reduce this base level of services.~~

~~(9) The council shall establish an advisory committee on juvenile justice proportionality. The council shall appoint the county juvenile court administrator and at least five citizens as advisory committee members. The citizen advisory committee members shall be representative of the county's ethnic and geographic diversity. The advisory committee members shall serve two-year terms and may be reappointed. The duties of the advisory committee include:~~

~~(a) Monitoring and reporting to the sentencing guidelines commission on the proportionality, effectiveness, and cultural relevance of:~~

~~(i) The rehabilitative services offered by county and state institutions to juvenile offenders; and~~

~~(ii) The rehabilitative services offered in conjunction with diversions, deferred dispositions, community supervision, and parole;~~

~~(b) Reviewing citizen complaints regarding bias or disproportionality in that county's juvenile justice system;~~

~~(c) By September 1 of each year, beginning with 1995, submit to the sentencing guidelines commission a report summarizing the advisory committee's findings under (a) and (b) of this subsection.~~))

NEW SECTION. **Sec. 109.** If specific funding for the purposes of sections 101 through 107 of this act, referencing sections 101 through 107 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, sections 101 through 107 of this act are null and void.

NEW SECTION. **Sec. 110.** Sections 101 through 107 of this act constitute a new chapter in Title 72 RCW.

PART II - LIABILITY

NEW SECTION. **Sec. 201.** A new section is added to chapter 4.24 RCW to read as follows:

For the purposes of this chapter:

(1) "Limited jurisdiction court" means a district court or a municipal court, and anyone acting or operating at the direction of such court, including but not limited to its officers, employees, agents, contractors, and volunteers.

(2) "Misdemeanant supervision services" means preconviction or postconviction misdemeanor probation or supervision services, or the monitoring of a misdemeanor defendant's compliance with a preconviction or postconviction order of the court, including but not limited to community corrections programs, probation supervision, pretrial supervision, or pretrial release services.

(3) "Supervision or community custody" includes preconviction or postconviction probation or supervision services, or the monitoring of a defendant's compliance with a preconviction or postconviction order of the court, including but not limited to community corrections programs, probation supervision, pretrial supervision, or pretrial release services. Community supervision also includes activities associated with

partnerships between corrections officers and law enforcement that may exist for this purpose.

(4) "The state" means the state, the department of corrections, and anyone acting under the direction of the state or department, including but not limited to its officers, employees, agents, contractors, and volunteers.

NEW SECTION. **Sec. 202.** A new section is added to chapter 4.24 RCW to read as follows:

A limited jurisdiction court that provides misdemeanant supervision services is not liable for civil damages based on the inadequate supervision or monitoring of a misdemeanor defendant or probationer unless the inadequate supervision or monitoring constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. Nothing in this section shall be construed to affect judicial immunity.

NEW SECTION. **Sec. 203.** A new section is added to chapter 4.24 RCW to read as follows:

The state is not liable for civil damages resulting from any act or omission in the provision of supervision or community custody unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists.

NEW SECTION. **Sec. 204.** A new section is added to chapter 4.24 RCW to read as follows:

(1) The state is not liable for civil damages resulting from any act or omission in the assessment, screening, or delivery of services to an offender under supervision or community custody for the purpose of creating, amending, maintaining, or implementing an individual reentry plan, unless the act or omission constitutes gross negligence.

(2) A limited jurisdiction court is not liable for civil damages resulting from any act or omission in the assessment, screening, or delivery of services to an offender under supervision or community custody for the purpose of creating, amending, maintaining, or implementing an individual reentry plan unless the act or omission constitutes gross negligence.

(3) This section does not create any duty and shall not be construed to create a duty where none exists.

PART III - INDIVIDUAL REENTRY PLAN

Sec. 301. RCW 72.09.015 and 2004 c 167 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

((~~(2)~~)) (3) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

((~~(3)~~)) (4) "County" means a county or combination of counties.

((~~(4)~~)) (5) "Department" means the department of corrections.

((~~(5)~~)) (6) "Earned early release" means earned release as authorized by RCW 9.94A.728.

((~~(6)~~)) (7) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(8) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

((~~(7)~~)) (9) "Good conduct" means compliance with department rules and policies.

((~~(8)~~)) (10) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

((~~(9)~~)) (11) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

((~~(10)~~)) (12) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

((~~(11)~~)) (13) "Individual reentry plan" means the plan to prepare an offender for release into the community. It must be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offenders' risks and needs. The individual reentry plan describes actions that must occur to prepare individual offenders for release from prison or jail and specifies the supervision and services they will experience in the community. An individual reentry plan must be updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(14) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

((~~(12)~~)) (15) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

((~~(13)~~)) (16) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(17) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(18) "Secretary" means the secretary of corrections or his or her designee.

((~~(14)~~)) (19) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

((~~(15)~~)) (20) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

((~~(16)~~)) (21) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

((~~(17)~~)) (22) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(23) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

((~~(18)~~)) (24) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

NEW SECTION. **Sec. 302.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall develop an individual reentry plan for every offender who is committed to the jurisdiction of the department of corrections except:

(a) Offenders who are sentenced to life without the possibility of release; and

(b) Offenders who are subject to the provisions of 8 U.S.C. 1227.

(2) In developing individual reentry plans, the department shall assess all offenders using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, employability, and educational and vocational skill levels for each offender.

(3) Individual reentry plans must address:

(a) The offender's ability to participate in programming or activities due to a mental or physical disability or mental illness;

(b) If appropriate, ways for the offender to maintain contact with his or her children and family and the need for parenting classes or other family oriented services; and

(c) Victim safety concerns and no contact provisions of the judgment and sentence.

(4) The initial assessment shall be conducted, whenever possible, within the first six weeks of being sentenced to the jurisdiction of the department of corrections and shall be periodically reviewed and updated as appropriate.

(5)(a) Prior to discharge of any offender, the department shall:

(i) Evaluate the offender's needs and, to the extent possible, connect the offender with existing services and resources that meet those needs; and

(ii) Connect the offender with a community justice center and/or community transition coordination network in the area in which the offender will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an offender's individual reentry plan, the department shall maximize the period of partial confinement for the offender as allowed pursuant to section 402 of this act to facilitate the offender's transition to the community.

(6) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the offender's treatment, programming, and reentry, when deemed appropriate. When technologically feasible, this information shall be shared electronically.

(7) Nothing in this section creates a vested right in programming, education, or other services.

PART IV - PARTIAL CONFINEMENT AND SUPERVISION

NEW SECTION. **Sec. 401.** (1) The legislature intends that Washington's work release centers be transformed into residential reentry centers with the capacity to provide or connect offenders with the full range of reentry services to achieve measurable outcomes. The Washington state institute for public policy shall conduct a comprehensive analysis and evaluation of residential reentry centers and work release facilities to identify evidence-based, research-based, and promising practices or programs for the state of Washington and the necessary performance measures that show the greatest quality, effectiveness, and efficiency of the program on key outcomes. The research should include an examination of reentry and work release practices in both urban and rural areas and both inside and outside of the state of Washington. The institute should identify what services or combination of services should be provided to participants of residential reentry centers and the length of time services should be provided to optimize the successful transition of an offender back into society.

(2) By May 1, 2008, the secretary of the department of corrections, or the secretary's designee, shall, within existing resources, convene and chair a work group to review current laws and policy regarding work release.

(3) In addition to the secretary of the department of corrections, the following shall be members of the work group: A representative appointed by the governor, a community corrections officer, a representative of the Washington association of prosecuting attorneys, a representative of the superior court judges association, a member selected by the Washington association of sheriffs and police chiefs, a representative from the Washington state association of counties, a representative from the association of Washington cities, a representative from contract work release facilities in the state, a representative from state-run work release facilities in the state, a representative from a nonprofit organization that works with former offenders who have completed a work release program, and a representative from the department of community, trade, and economic development. The secretary may designate a person to serve in his or her place. Members of the work group shall serve without compensation.

(4) In conducting its review, the work group must review and make recommendations for changes to corrections law and policies to ensure that:

(a) Work release facilities are transformed into residential reentry centers so that participants are provided with a combination of reentry services that conform to evidence-based, research-based, or promising practices as identified by the institute;

(b) Residential reentry centers lead to meaningful employment for offenders participating in the program;

(c) A plan is identified to ensure that residential reentry centers are distributed throughout the state;

(d) Residential reentry centers are of a size consistent with evidence-based, research-based, or promising practices and appropriate to the community in which they are located;

(e) Communities are given meaningful avenues for ongoing consultation regarding the establishment and operation of residential reentry centers in their area;

(f) Victim and community safety concerns are given priority when determining appropriate placement in residential reentry centers for individual offenders;

(g) Eligibility time to participate in residential reentry centers is sufficient to make it a meaningful experience for offenders; and

(h) Programs have the necessary performance measures needed to effectively monitor the quality, effectiveness, and efficiency of the programs.

(5)(a) The institute shall report its results and recommendations to the governor and the legislature no later than November 15, 2007.

(b) The department of corrections shall report the results and recommendations of the work group to the governor and the legislature no later than November 15, 2008.

NEW SECTION. **Sec. 402.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall continue to establish community justice centers throughout the state for the purpose of providing comprehensive services and monitoring for inmates who are reentering the community.

(2) For the purposes of this chapter, "community justice center" is defined as a nonresidential facility staffed primarily by the department in which recently released offenders may access services necessary to improve their successful reentry into the community. Such services may include but are not limited to, those listed in the individual reentry plan, mental health, chemical dependency, sex offender treatment, anger management, parental educational, financial literacy, housing assistance, employment assistance, and community supervision.

(3) At a minimum, the community justice center shall include:

(a) A violator program to allow the department to utilize a range of available sanctions for offenders who violate conditions of their supervision;

(b) An employment opportunity program to assist an offender in finding employment; and

(c) Resources for connecting offenders with services such as treatment, transportation, training, family reunification, and community services.

(4) In addition to any other programs or services offered by a community justice center, the department shall designate a transition coordinator to facilitate connections between the

former offender and the community. The department may designate transition coordination services to be provided by a community transition coordination network pursuant to section 103 of this act if one has been established in the community where the community justice center is located and the department has entered into a memorandum of understanding with the county to share resources.

(5) The transition coordinator shall provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release from the correctional facility. The transition coordinator shall, at a minimum, be responsible for the following:

(a) Gathering and maintaining information regarding services currently existing within the community that are available to offenders including, but not limited to:

(i) Programs offered through the department of social and health services, the department of health, the department of licensing, housing authorities, local community and technical colleges, other state or federal entities which provide public benefits, and nonprofit entities;

(ii) Services such as housing assistance, employment assistance, education, vocational training, parent education, financial literacy, treatment for substance abuse, mental health, anger management, and any other service or program that will assist the former offender to successfully transition into the community;

(b) Coordinating access to the existing services with the community providers and provide offenders with information regarding how to access the various type of services and resources that are available in the community.

(6)(a) A minimum of six community justice centers shall be operational by December 1, 2009. The six community justice centers include those in operation on the effective date of this section.

(b) By December 1, 2011, the department shall establish a minimum of three additional community justice centers within the state.

(7) In locating new centers, the department shall:

(a) Give priority to the counties with the largest population of offenders who were released from department of corrections custody and that do not already have a community justice center;

(b) Ensure that at least two centers are operational in eastern Washington; and

(c) Comply with section 403 of this act and all applicable zoning laws and regulations.

(8) Before beginning the siting or opening of the new community justice center, the department shall:

(a) Notify the city, if applicable, and the county within which the community justice center is proposed. Such notice shall occur at least sixty days prior to selecting a specific location to provide the services listed in this section;

(b) Consult with the community providers listed in subsection (5) of this section to determine if they have the capacity to provide services to offenders through the community justice center; and

(c) Give due consideration to all comments received in response to the notice of the start of site selection and consultation with community providers.

(9) The department shall make efforts to enter into memoranda of understanding or agreements with the local community policing and supervision programs as defined in section 101 of this act in which the community justice center is located to address:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders, including services provided through a community transition coordination network established pursuant to section 103 of this act if a network has been established in the county;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships between the department of corrections and local police to supervise offenders. The agreement must address:

(i) Shared mechanisms to facilitate supervision of offenders under the respective jurisdictions of each which may include activities such as joint emphasis patrols to monitor high-risk offenders, service of bench and secretary warrants and detainers, joint field visits, connecting offenders with services, and, where appropriate, directing offenders into sanction alternatives in lieu of incarceration;

(ii) The roles and responsibilities of police officers and corrections staff participating in the partnership; and

(iii) The amount of corrections staff and police officer time that will be dedicated to partnership efforts.

NEW SECTION. **Sec. 403.** No later than July 1, 2007, and every biennium thereafter starting with the biennium beginning July 1, 2008, the department shall prepare a list of counties and rural multicounty geographic areas in which work release facilities, community justice centers and other community-based facilities are anticipated to be sited during the next three fiscal years and transmit the list to the office of financial management and the counties on the list. The list may be updated as needed.

Sec. 404. RCW 9.94A.728 and 2004 c 176 s 6 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); ((~~and~~))

(C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under section 302 of this act to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after the effective date of this act while under community supervision, community restitution, community placement, or community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(b) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(c) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community placement or community custody terms eligible for release to community custody status in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(d) The department may deny transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement;

(e) If the department denies transfer to community custody status in lieu of earned early release pursuant to (d) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

(f) An offender serving a term of confinement imposed under RCW 9.94A.670(4)(a) is not eligible for earned release credits under this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time;

(5) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(6) No more than the final six months of the ((~~sentence~~)) offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to subsection (2)(e) of this section;

(7) The governor may pardon any offender;

(8) The department may release an offender from confinement any time within ten days before a release date calculated under this section; and

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870.

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

NEW SECTION. **Sec. 405.** (1) The secretary of the department of corrections, or the secretary's designee, shall within existing resources, review current laws and policy regarding the supervision of offenders through the department of corrections.

(2) In conducting its review, the department must:

(a) Standardize community corrections practices across the state and review field supervision policies to clarify expectations;

(b) Address the training needs of community corrections staff consistent with department practices and policies;

(c) Review the workloads of community corrections officers and other staff associated with supervision activities and explore mechanisms to allow for greater emphasis on field supervision;

(d) Review the supervision violation hearings and sanctions process, including the offender behavior response guide, to:

(i) Address recommendations identified in the assessment conducted by the national institute of corrections;

(ii) Improve the ability to respond appropriately and effectively sanction an offender's behavior; and

(iii) Ensure appropriate standards for the due process rights of offenders and that those standards are consistently upheld;

(e) Increase options and application of evidence-based, research-based, and promising practices for offenders on supervision, including those with chemical dependency issues;

(f) Standardize and implement consistent quality assurance standards for community corrections staff; and

(g) Review mechanisms to provide better access to information by community corrections officers about the offenders they are supervising including statutory changes to confidentiality provisions and utilization of automation and technology.

(3) The department of corrections shall present a progress report of the findings and recommendations to the governor and the appropriate committees of the legislature by November 15, 2007, with a final report due by November 15, 2008.

(4) This section expires December 15, 2008.

Sec. 406. RCW 9.94A.850 and 2005 c 282 s 19 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall:

(a) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:

(i) The purposes of this chapter as defined in RCW 9.94A.010; and

(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.

The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;

(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity;

(c) Study the existing criminal code and from time to time make recommendations to the legislature for modification;

(d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

(e) Assume the powers and duties of the juvenile disposition standards commission after June 30, 1996;

(f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first-time offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature regarding revisions or modifications of the standards. The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for modification of the disposition standards. The administrative office of the courts shall provide the commission with available data on diversion, including the use of youth court programs, and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing, and, if available, the impact that diversions, such as youth courts, have on racial disproportionality in juvenile prosecution, adjudication, and sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources; and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community restitution, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter, except as provided in RCW 9.94A.517, are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5)(a) Not later than December 31, 1999, the commission shall propose to the legislature the initial community custody ranges to be included in sentences under RCW 9.94A.715 for crimes committed on or after July 1, 2000. Not later than December 31 of each year, the commission may propose modifications to the ranges. The ranges shall be based on the principles in RCW 9.94A.010, and shall take into account the funds available to the department for community custody. The minimum term in each range shall not be less than one-half of the maximum term.

(b) The legislature may, by enactment of a legislative bill, adopt or modify the community custody ranges proposed by the commission. If the legislature fails to adopt or modify the initial ranges in its next regular session after they are proposed, the proposed ranges shall take effect without legislative approval for crimes committed on or after July 1, 2000.

(c) When the commission proposes modifications to ranges pursuant to this subsection, the legislature may, by enactment of a bill, adopt or modify the ranges proposed by the commission for crimes committed on or after July 1 of the year after they were proposed. Unless the legislature adopts or modifies the

commission's proposal in its next regular session, the proposed ranges shall not take effect.

(6) The commission shall review state sentencing laws and policy in order to simplify supervision requirements and allow community corrections officers to more easily identify statutory requirements associated with an offender's sentence. Not later than December 31, 2007, the commission shall report to the legislature on any recommendations for changes to existing statutes.

(7) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

PART V - EDUCATION

Sec. 501. RCW 72.09.460 and 2004 c 167 s 5 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted ((~~under subsection (4) of~~)) as specifically provided in this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(2) The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

(((~~(2) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.~~))

(3)(a) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(((~~(a)~~))) (i) Achievement of basic academic skills through obtaining a high school diploma or its equivalent ((~~and~~));

(ii) Achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(((~~(b) Additional work and education programs based on assessments and placements under subsection (5) of this section; and~~

~~(c) Other work and education programs as appropriate.~~

~~(4) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all temporarily disabled inmates to ensure the earliest possible entry or reentry by inmates into available programming.~~

~~(5) The department shall establish, by rule, standards for participation in department-approved education and work programs. The standards shall address the following areas:~~

~~(a) Assessment. The department shall assess all inmates for their basic academic skill levels using a professionally accepted method of scoring reading, math, and language skills as grade level equivalents. The department shall determine an inmate's education history, work history, and vocational or work skills. The initial assessment shall be conducted, whenever possible, within the first thirty days of an inmate's entry into the correctional system, except that initial assessments are not required for inmates who are sentenced to life without the possibility of release, assigned to an intensive management unit within the first thirty days after entry into the correctional system, are returning to the correctional system within one year of a prior release, or whose physical or mental condition renders them unable to complete the assessment process. The department shall track and record changes in the basic academic skill levels of all inmates reflected in any testing or assessment performed as part of their education programming;~~

~~(b) Placement. The department shall follow the policies set forth in subsection (1) of this section in establishing criteria for placing inmates in education and work programs. The department shall, to the extent possible, place all inmates whose composite grade level score for basic academic skills is below the eighth grade level in a combined education and work program. The placement criteria shall include at least the following factors~~)) (iii) Additional work and education programs necessary for compliance with an offender's individual reentry plan under section 302 of this act with the exception of postsecondary education degree programs as provided in section 502 of this act; and

(iv) Other appropriate vocational, work, or education programs that are not necessary for compliance with an offender's individual reentry plan under section 302 of this act with the exception of postsecondary education degree programs as provided in section 502 of this act.

(b) If programming is provided pursuant to (a)(i) through (iii) of this subsection, the department shall pay the cost of such programming, including but not limited to books, materials, supplies, and postage costs related to correspondence courses.

(c) If programming is provided pursuant to (a)(iv) of this subsection, inmates shall be required to pay all or a portion of the costs, including books, fees, and tuition, for participation in any vocational, work, or education program as provided in department policies. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any programming provided pursuant to (a)(iv) of this subsection on behalf of an inmate. Such payments shall not be subject to any of the deductions as provided in this chapter.

(d) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to complete the purposes of this section.

(e) Any funds collected by the department under (c) and (d) of this subsection and subsections (8) and (9) of this section shall be used solely for the creation, maintenance, or expansion of inmate educational and vocational programs.

(4) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of

education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(5)(a) In addition to the policies set forth in this section, the department shall consider the following factors in establishing criteria for assessing the inclusion of education and work programs in an inmate's individual reentry plan and in placing inmates in education and work programs:

(i) An inmate's release date and custody level. An inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that inmates with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of inmates participating in a new class I correctional industry not in existence on June 10, 2004;

(ii) An inmate's education history and basic academic skills;

(iii) An inmate's work history and vocational or work skills;

(iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and

(v) Where applicable, an inmate's prior performance in department-approved education or work programs;

((~~(c) Performance and goals.~~)) (b) The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals((~~;~~

~~(d) Financial responsibility. (i) The department shall establish a formula by which inmates, based on their ability to pay, shall pay all or a portion of the costs or tuition of certain programs. Inmates shall, based on the formula, pay a portion of the costs or tuition of participation in:~~

~~(A) Second and subsequent vocational programs associated with an inmate's work programs; and~~

~~(B) An associate of arts or baccalaureate degree program when placement in a degree program is the result of a placement made under this subsection;~~

~~(ii) Inmates shall pay all costs and tuition for participation in:~~

~~(A) Any postsecondary academic degree program which is entered independently of a placement decision made under this subsection; and~~

~~(B) Second and subsequent vocational programs not associated with an inmate's work program.~~

~~Enrollment in any program specified in (d)(ii) of this subsection shall only be allowed by correspondence or if there is an opening in an education or work program at the institution where an inmate is incarcerated and no other inmate who is placed in a program under this subsection will be displaced; and~~

~~(e) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release:~~

~~(i) Shall not be required to participate in education programming; and~~

~~(ii) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers.~~

~~If an inmate sentenced to life without the possibility of release requires prevocational or vocational training for a work program, he or she may participate in the training subject to this section.~~

~~(6) The department shall coordinate education and work programs among its institutions, to the greatest extent possible, to facilitate continuity of programming among inmates transferred between institutions. Before transferring an inmate enrolled in a program, the department shall consider the effect the transfer will have on the inmate's ability to continue or complete a program. This subsection shall not be used to delay or prohibit a transfer necessary for legitimate safety or security concerns.~~

~~(7) Before construction of a new correctional institution or expansion of an existing correctional institution, the department shall adopt a plan demonstrating how cable, closed-circuit, and satellite television will be used for education and training purposes in the institution. The plan shall specify how the use of television in the education and training programs will improve inmates' preparedness for available work programs and job opportunities for which inmates may qualify upon release.~~

~~(8) The department shall adopt a plan to reduce the per-pupil cost of instruction by, among other methods, increasing the use of volunteer instructors and implementing technological efficiencies. The plan shall be adopted by December 1996 and shall be transmitted to the legislature upon adoption. The department shall, in adoption of the plan, consider distance learning, satellite instruction, video tape usage, computer-aided instruction, and flexible scheduling of offender instruction.~~

~~(9) Following completion of the review required by section 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take all necessary steps to assure the vocation and education programs are relevant to work programs and skills necessary to enhance the employability of inmates upon release~~)).

(6) Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(7) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all inmates with temporary disabilities to ensure the earliest possible entry or reentry by inmates into available programming.

(8) The department shall establish policies requiring an offender to pay all or a portion of the costs and tuition for any vocational training or postsecondary education program if the offender completed more than two hundred hours in the program and then withdrew from participation without approval from the department. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any program on behalf of an inmate under this subsection. Such payments shall not be subject to any of the deductions as provided in this chapter.

(9) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release or subject to the provisions of 8 U.S.C. Sec. 1227:

(a) Shall not be required to participate in education programming except as may be necessary for the maintenance of discipline and security;

(b) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers;

(c) May participate in prevocational or vocational training that may be necessary to participate in a work program;

(d) Shall be subject to the applicable provisions of this chapter relating to inmate financial responsibility for programming except the postsecondary education degree loan program as provided in section 502(3) of this act.

NEW SECTION. **Sec. 502.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall, if funds are appropriated for the specific purpose, implement postsecondary education degree programs within state correctional institutions, including the state correctional institution with the largest population of female inmates. The department shall consider for inclusion in any postsecondary education degree program, any postsecondary education degree program from an accredited community college, college, or university that is part of an associate of arts, baccalaureate, masters of arts, or other graduate degree program.

(2) Inmates shall be required to pay the costs for participation in any postsecondary education degree programs established under this subsection, including books, fees, tuition, or any other appropriate ancillary costs, by one or more of the following means:

(a) The inmate who is participating in the postsecondary education degree program shall, during confinement, provide the required payment or payments to the department;

(b) A third party shall provide the required payment or payments directly to the department on behalf of an inmate, and such payments shall not be subject to any of the deductions as provided in this chapter; or

(c) The inmate who is participating in the postsecondary education degree program shall provide the required payment or payments to the department using loan funds obtained from the department's postsecondary education degree loan program created pursuant to subsection (3) of this section.

(3) The department shall, if funds are appropriated for the specific purpose, establish by rule a postsecondary education degree loan program for inmates seeking to participate in available postsecondary education degree programs. The department shall establish a process for awarding loans to inmates, including an application process and criteria for awarding loans. The department shall collect repayment as provided in section 504 of this act. A third party may pay directly to the department all or a portion of any loan on behalf of an inmate. Such payments shall not be subject to any of the deductions as provided in this chapter. Inmates under RCW 72.09.460(9) are not eligible to participate in the postsecondary education degree loan program.

(4) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to complete the purposes of this section.

(5) Any funds collected by the department under this section and RCW 72.09.450(4) shall be used solely for the creation, maintenance, or expansion of inmate postsecondary education degree programs.

Sec. 503. RCW 72.09.480 and 2003 c 271 s 3 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsection (7) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the public safety and education account for the purpose of crime victims' compensation;

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

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

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

(e) Fifteen percent for any child support owed under a support order.

(3) When an inmate, except as provided in subsection (7) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

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

~~An inmate may, prior to the completion of the fee-based education or vocational program authorized under this subsection, apply to a person designated by the secretary for permission to make a change in his or her program. The secretary, or his or her designee, may approve the application based solely on the following criteria: (a) The inmate has been transferred to another institution by the department for reasons unrelated to education or a change to a higher security classification and the offender's current program is unavailable in the offender's new placement; (b) the inmate entered an academic program as an undeclared major and wishes to declare a major. No inmate may apply for more than one change to his or her major and receive the exemption from deductions specified in this subsection; (c) the educational or vocational institution is terminating the inmate's current program; or (d) the offender's training or education has demonstrated that the current program is not the appropriate program to assist the offender to achieve a placement decision made by the department under RCW 72.09.460 to prepare the inmate for work upon release~~)) or postsecondary education degree programs as provided in RCW 72.09.460 and section 502 of this act.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(6) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

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

(8) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95

RCW, receives any funds from a settlement or award resulting from a legal action in addition to his or her gratuities, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation and twenty percent to the department to contribute to the cost of incarceration.

(9) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(10) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

Sec. 504. RCW 72.09.450 and 1996 c 277 s 1 are each amended to read as follows:

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department. The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) The department shall record as a debt any loan recorded against an inmate participating in the postsecondary education degree loan program as provided under section 502 of this act. The department shall attempt to recoup the debt not sooner than two years from an inmate's date of release from total or partial confinement and any loan made under this subsection shall not accrue interest at any time. The department may pursue collection of the debt as provided in subsection (5) of this section.

(5) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of general administration, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for general administration or collection agency services shall be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local database that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department.

NEW SECTION. **Sec. 505.** (1) The department of corrections and the state board for community and technical colleges, in cooperation with the unions representing academic employees in corrections education programs, shall investigate and review methods to optimize educational and vocational programming opportunities to meet the needs of each offender as identified in his or her individual reentry plan while an offender is under the jurisdiction of the department.

(2) In conducting its review, the department and state board shall consider and make recommendations regarding:

(a) Technological advances which could serve to expand educational programs and vocational training including, but not limited to, distance learning, satellite instruction, videotape usage, computer aided instruction, and flexible scheduling and also considering the infrastructure, resources, and security that would be needed to implement the program or training. These advances shall be assessed for their ability to provide the most cost-efficient and effective programming for offenders;

(b) Methods to ensure that educational programs and vocational training are relevant to enhance the employability of offenders upon release; and

(c) Long-term methods for maintaining channels of communication between the department, state board administration, academic employees, and students.

(3) The department and state board shall report to the governor and the legislature no later than November 15, 2007.

NEW SECTION. **Sec. 506.** (1) The Washington state institute for public policy shall conduct a comprehensive analysis and evaluation of evidence-based, research-based, and promising correctional education programs and the extent to which Washington's programs are in accord with these practices. In gathering data regarding correctional education programs, the institute may consult with academic employees from correctional education programs.

(2) The institute shall report to the governor and the legislature no later than November 15, 2007.

PART VI - EMPLOYMENT BARRIERS

NEW SECTION. **Sec. 601.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Subject to the limits in this section, a credit is authorized against the tax otherwise due under this chapter for persons that employ one or more qualifying ex-offenders.

(2) In order to qualify for the tax credit, the person must, within twenty-eight days of the ex-offender's hire date, submit a completed application to the employment security department for certification of the employee as a qualifying ex-offender under this section.

(3) The employment security department shall adopt rules and make forms available to persons employing ex-offenders to apply for certification under this section.

(4) Credit is only earned when:

(a) The person claiming a credit has received certification from the employment security department that the employee is a qualifying ex-offender; and

(b) The qualifying ex-offender has worked at least seven hundred eighty hours in the first twelve months following the date the individual was hired by the person claiming the credit under this section.

(5) The amount of the credit is equal to one thousand dollars per qualifying ex-offender and may be used against any tax due under this chapter. Credit may only be claimed against taxes due for reporting periods ending after the credit is earned. Unused credit earned in one calendar year may be carried over and claimed against taxes due for the subsequent calendar year. No refunds may be granted for credits under this section that are in excess of taxes due and payable for the reporting period.

(6) Submittal of the certification to the department is not required to claim the credit under this section. The person claiming the credit must keep a copy of the certification on file to allow the department to verify eligibility under this section if necessary.

(7) A person claiming credit under this section shall not claim credit under section 602 of this act with respect to the same qualifying ex-offender.

(8) As used in this section, "qualifying ex-offender" means an individual who: (a) Has been convicted of a felony under any statute of the United States or any state; and (b) is hired by the person claiming the credit under this section within one year of being convicted of the felony or, if the individual served a prison sentence for the conviction, of being released from confinement.

NEW SECTION. **Sec. 602.** A new section is added to chapter 82.16 RCW to read as follows:

(1) A credit is authorized against the tax otherwise due under this chapter for persons that employ one or more qualifying ex-offenders.

(2) The provisions for the credit authorized in section 601 of this act apply to this section.

(3) A person claiming credit under this section may not claim credit under section 601 of this act with respect to the same qualifying ex-offender.

NEW SECTION. **Sec. 603.** On or before October 1, 2007, the department of corrections and the department of licensing shall enter into an agreement establishing expedited procedures to assist offenders in obtaining a driver's license or identification card upon their release from a department of corrections' institution.

NEW SECTION. **Sec. 604.** (1) The director of the department of licensing, or the director's designee, shall, within existing resources, convene and chair a work group to review and recommend changes to occupational licensing laws and policies to encourage the employment of individuals with criminal convictions while ensuring the safety of the public.

(2) In addition to the director of the department of licensing, the following shall be members of the work group: A representative from the employment security department, a representative from the department of corrections, a representative from the Washington state association of prosecuting attorneys, and up to five members appointed by the governor from state agencies that issue occupational licenses. The department shall also invite participation from victim service agencies, the state board for community and technical colleges, association of Washington business, nonprofit organizations providing workforce training to released offenders, and legislative staff who provide support to the human services and human services and corrections committees. Members of the work group shall serve without compensation.

(3) In conducting its review, the work group must:

(a) Review approaches used by other states and jurisdictions for awarding occupational licenses to those with criminal convictions;

(b) Develop a process and standards by which the department of licensing and licensing agencies will determine whether a criminal conviction renders an applicant an unsuitable candidate for a license or whether a conviction warrants revocation or suspension of a license previously granted;

(c) Develop guidelines for potential applicants that reflect the most common or well-known categories of crimes and their relation to specific license types;

(d) Establish mechanisms for making information regarding the process and guidelines easily accessible to potential applicants with criminal histories.

(4) The department of licensing shall present a report of its findings and recommendations to the governor and the appropriate committees of the legislature, including any proposed legislation, by November 15, 2008.

(5) This section expires December 15, 2008.

PART VII - HOUSING

NEW SECTION. **Sec. 701.** The legislature finds that, in order to improve the safety of our communities, more housing needs to be made available to offenders returning to the community. The legislature intends to increase the housing available to offenders by providing that landlords who rent to offenders shall be immune from civil liability for damages that may result from the criminal conduct of the tenant.

NEW SECTION. **Sec. 702.** A new section is added to chapter 59.18 RCW to read as follows:

A landlord who rents to an offender is not liable for civil damages arising from the criminal conduct of the tenant. In order for a landlord to be protected from liability as provided under this section, a landlord must disclose to residents of the property that he or she rents or has a policy of renting to offenders.

NEW SECTION. **Sec. 703.** A new section is added to chapter 35.82 RCW to read as follows:

The legislature recognizes that stable, habitable, and supportive housing is a critical factor that increases a previously incarcerated individual's access to treatment and services as well as the likelihood of success in the community. Housing authorities are therefore encouraged to formulate rental policies that are not unduly burdensome to previously incarcerated individuals attempting to reenter the community, particularly when the individual's family may already reside in government subsidized housing.

NEW SECTION. **Sec. 704.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The offender reentry transitional housing assistance program is created in the department of community, trade, and economic development to assist homeless offenders secure and retain safe, decent, and affordable housing. Within funds appropriated for the purposes of this section, the department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Contracts with supportive housing facilities to exclusively provide housing for homeless offenders. Supportive housing is housing that will provide a structured living environment for offenders to assist an offender in developing the interpersonal and social survival skills necessary to be independent and self-reliant in mainstream society; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance up to twelve months through the offender reentry transitional housing assistance program are offenders who:

(a) Will be released or were released within the last six months from a correctional facility operated by the department of corrections;

(b) Are homeless or at risk of becoming homeless and have household incomes at or below fifty percent of the median household income for their county;

(c) Have not been found to have violated conditions of his or her supervision on two or more separate occasions.

(3) In providing assistance, priority shall be given to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections.

(4) All housing assistance recipients must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(5) Data on all housing assistance recipients must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(6) The department of corrections shall cooperate with the department in:

(a) Determining an appropriate formula for the distribution of grant funds to counties or regions; and

(b) Developing rules, requirements, procedures, and guidelines as necessary to implement and operate the offender reentry transitional housing assistance program.

(7) The department of corrections shall collaborate with the organization receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the case manager, housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center, if one is located in the area.

(8) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping housing assistance recipients transition into permanent housing and increase their levels of self-sufficiency;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on housing assistance recipients provided to the Washington homeless client management information system database; and

(d) The satisfaction of housing assistance recipients in the assistance provided through the program.

(9) The state, department of community, trade, and economic development, department of corrections, local governments, local housing authorities, and its employees are not liable for civil damages arising from the criminal conduct of an offender due to the placement of an offender in housing provided under this section or the provision of housing assistance.

NEW SECTION. **Sec. 705.** A new section is added to chapter 43.185C RCW to read as follows:

The offender reentry transitional housing assistance account is created in the custody of the state treasurer. All receipts from sources directed to the offender reentry transitional housing assistance program must be deposited into the account. Expenditures from the account may be used solely for the purpose of the offender reentry transitional housing assistance program as described in section 704 of this act. Only the director of the department of community, trade and economic development or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 706. RCW 72.09.111 and 2004 c 167 s 7 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

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

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

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

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

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

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

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

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the purpose of crime victims' compensation; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement((~~, unless~~));

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate((~~, at which time the funds can be~~)).

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

PART VIII - RESTORATION OF CIVIL RIGHTS

Sec. 801. RCW 29A.04.079 and 2003 c 111 s 114 are each amended to read as follows:

An "infamous crime" is a crime punishable by death in the state penitentiary or imprisonment in a state correctional facility. The definition of "infamous crime" does not include juvenile adjudications pursuant to chapter 13.40 RCW or adult convictions for misdemeanors and gross misdemeanors.

Sec. 802. RCW 29A.08.520 and 2005 c 246 s 15 are each amended to read as follows:

(1) ((~~Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a quarterly comparison of a list of known felons with the statewide voter registration list.~~)) A person who has been convicted of a felony and who is under the jurisdiction of the department of corrections as a result of that felony conviction is ineligible to vote. Following conviction of a felony, the right to vote is provisionally restored as long as the person is not under the jurisdiction of the department of corrections.

(2)(a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.

(b) If the person has failed to make three payments in a twelve-month period and the county clerk or restitution recipient requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.

(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.

(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.

(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.

(5) At least twice a year, the secretary of state shall compare the list of registered voters to a list of felons who are not eligible to vote as provided in subsections (1) and (3) of this section. If a ((~~person is found on a felon list and the statewide voter registration list~~)) registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The canceling authority shall send to the person at his or her last known voter registration address a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring the right to vote ((~~once all terms of sentencing have been completed~~)) and reregistering. If the person does not respond within thirty days, the registration must be canceled. To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

(((~~(2)~~))) (6) The right to vote may be permanently restored by((~~, for each felony conviction,~~)) one of the following for each felony conviction:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

Sec. 803. RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as follows:

(1) Upon termination of any suspended sentence under RCW 9.92.060 or 9.95.210, such person may apply to the court for restoration of his or her civil rights not already restored by RCW 29A.08.520. Thereupon the court may in its discretion enter an order directing that such defendant shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he or she has been convicted.

(2)(a) Upon termination of a suspended sentence under RCW 9.92.060 or 9.95.210, the person may apply to the sentencing court for a vacation of the person's record of conviction under RCW 9.94A.640. The court may, in its discretion, clear the record of conviction if it finds the person has met the equivalent of the tests in RCW 9.94A.640(2) as those tests would be applied to a person convicted of a crime committed before July 1, 1984.

(b) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

Sec. 804. RCW 9.94A.637 and 2004 c 121 s 2 are each amended to read as follows:

(1)(a) When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody and supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(b)(i) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence.

(ii) When the department has provided the county clerk with notice that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court, including the notice from the department, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(c) When an offender who is subject to requirements of the sentence in addition to the payment of legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(2) The court shall send a copy of every signed certificate of discharge to the auditor for the county in which the court resides and to the department. The department shall create and maintain a database containing the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

(3) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

(4) Except as provided in subsection (5) of this section, the discharge shall have the effect of restoring all civil rights ((~~lost by operation of law upon conviction~~)) not already restored by RCW 29A.08.520, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

(5) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order issued under chapter 10.99 RCW that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

(6) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

Sec. 805. RCW 9.96.050 and 2002 c 16 s 3 are each amended to read as follows:

When a prisoner on parole has performed all obligations of his or her release, including any and all legal financial obligations, for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the prisoner. The certificate of discharge shall be issued to the offender in person or by mail to the prisoner's last known address.

The board shall send a copy of every signed certificate of discharge ((~~to the auditor for the county in which the offender was sentenced and~~)) to the department of corrections. The department shall create and maintain a database containing the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

The board retains the jurisdiction to issue a certificate of discharge after the expiration of the prisoner's or parolee's maximum statutory sentence. If not earlier granted, the board shall make a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years. Such discharge, regardless of when issued, shall have the effect of restoring all civil rights ((~~lost by operation of law upon conviction~~)) not already restored by RCW 29A.08.520, and the certification of discharge shall so state. This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person.

Sec. 806. RCW 10.64.140 and 2005 c 246 s 1 are each amended to read as follows:

When a person is convicted of a felony, the court shall require the defendant to sign a statement acknowledging that:

(1) The defendant's right to vote has been lost due to the felony conviction;

(2) ((~~If the defendant is registered to vote, the voter registration will be canceled~~)) The right to vote is provisionally restored as long as the defendant is not under the jurisdiction of the department of corrections;

(3) The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations;

((~~(3)~~)) (4) The right to vote may be permanently restored by one of the following for each felony conviction:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

((~~(4)~~)) (5) Voting before the right is restored is a class C felony under RCW 29A.84.660.

NEW SECTION. **Sec. 807.** The following acts or parts of acts are each repealed:

(1) RCW 10.64.021 (Notice of conviction) and 1994 c 57 s 1; and

(2) RCW 29A.08.660 (Felony offender--Completion of sentence) and 2005 c 246 s 12.

PART IX - OVERSIGHT COMMITTEE

NEW SECTION. **Sec. 901.** A new section is added to chapter 72.09 RCW to read as follows:

(1) There is created the legislative corrections oversight committee for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and

policies pertaining to the department of corrections and the treatment and supervision of offenders under the jurisdiction of the department. The committee shall consist of three senators and three representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate. The house members of the committee shall be appointed by the speaker of the house of representatives. Not more than two members from each chamber shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(2) The committee shall have the following powers:

(a) Selection of its officers and adoption of rules for orderly procedure;

(b) Request and receive status reports from the department related to its progress on the recommendations of the joint task force on offenders programs, sentencing and supervision authorized by chapter 267, Laws of 2006, implementation of the provisions of this act, and other topics as appropriate;

(c) Monitor coordination and collaboration between local government and the department and efforts to share resources and reduce the duplication of services;

(d) Request investigations by the corrections ombudsman of administrative acts;

(e) Receive reports of the ombudsman;

(f)(i) Obtain access to all relevant records in the possession of the department or ombudsman, except as prohibited by law; and (ii) make recommendations to all branches of government;

(g) Request legislation;

(h) Conduct hearings into such matters as it deems necessary.

(3) Upon receipt of records from the department or ombudsman, the committee is subject to the same confidentiality restrictions as the department or ombudsman under Senate Bill No. 5295.

(4) The committee will receive the necessary staff support from both the senate and house of representatives staff resources.

(5) The members of the committee shall serve without additional compensation, but will be reimbursed for their travel expenses, in accordance with RCW 44.04.120, incurred while attending sessions of the committee or meetings of a subcommittee of the committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings.

(6) This section expires July 1, 2012.

PART X - MISCELLANEOUS

NEW SECTION. **Sec. 1001.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 1002.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 1003.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Carrell and Regala to the striking amendment be adopted.

On page 27, after line 5 of the amendment, insert the following:

"**Sec. 405.** RCW 9.94A.737 and 2005 c 435 s 3 are each amended to read as follows:

(1) If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection ((~~(2)~~)) (3) of this section.

(2) If an offender has not completed his or her maximum term of total confinement and commits a third violation of any condition of community custody, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending. At the completion of any term of total confinement under this subsection, an offender shall be subject to not less than twelve months of community custody if the offender was originally sentenced on or after the effective date of this section.

(3)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.

(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.

(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

((~~(3)~~)) (4) If an offender has been arrested for a new felony offense, the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(5) Any offender sanctioned to total confinement under this section shall serve the entire term of the sanction in total confinement as defined in RCW 9.94A.030.

(6) The department shall be financially responsible for any portion of the sanctions authorized by this section that are served in a local correctional facility.

(7) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a

hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

((~~(4)~~)) (8) The hearing procedures required under subsection ((~~(3)~~)) (7) of this section shall be developed by rule and include the following:

(a) Hearing officers shall report through a chain of command separate from that of community corrections officers;

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; and (v) question witnesses who appear and testify; and

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

((~~(5)~~)) (9) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

((~~(6)~~)) (10) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.

((~~(7)~~)) (11) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith."

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

Senator Hargrove spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Carrell and Regala on page 27, after line 5 to the striking amendment to Second Substitute Senate Bill No. 5070.

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

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Carrell and Regala as amended to Second Substitute Senate Bill No. 5070.

The motion by Senator Hargrove carried and the striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "recidivism;" strike the remainder of the title and insert "amending RCW 72.09.300, 72.09.015, 9.94A.728, 9.94A.850, 72.09.460, 72.09.480, 72.09.450, 72.09.111, 29A.04.079, 29A.08.520, 9.92.066, 9.94A.637, 9.96.050, and 10.64.140; adding new sections to chapter 4.24 RCW; adding new sections to chapter 72.09 RCW; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 59.18 RCW; adding a new section to chapter 35.82 RCW; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 72 RCW; creating new sections; repealing RCW 10.64.021 and 29A.08.660; and providing expiration dates."

On page 62, line 7 of the amendment, after "9.94A.728," insert "9.94A.737,"

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5070 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carrell, Regala, Stevens, Franklin, Hargrove and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5070.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5070 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senator Marr - 1

Excused: Senator Delvin - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5070, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6001, by Senators Pridemore, Poulsen, Rockefeller, Brown, Eide, Oemig, Hargrove, Marr, Fraser, Kohl-Welles, Keiser, Regala, Franklin, Fairley, Jacobsen, Shin, Haugen, Berkey, Spanel, Kline and Weinstein

Mitigating the impacts of climate change.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 6001 was substituted for Senate Bill No. 6001 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Pridemore moved that the following striking amendment by Senator Pridemore be adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Washington is especially vulnerable to climate change because of the state's dependence on snow pack for summer stream flows and because the expected rise in sea levels threatens our coastal communities. Extreme weather, a warming Pacific Northwest, reduced snow pack, and sea level rise are four major ways that climate change is disrupting Washington's economy, environment, and communities;

(b) Washington's greenhouse gas emissions are continuing to increase, despite international scientific consensus that worldwide emissions must be reduced significantly below current levels to avert catastrophic climate change;

(c) Washington has been a leader in actions to reduce the increase of emissions, including the adoption of clean car standards, stronger appliance energy efficiency standards, increased production and use of renewable liquid fuels, and increased renewable energy sources by electrical utilities;

(d) Washington has participated with other Western states in designing regional approaches to reduce greenhouse gas emissions, and a regional cap and trade mechanism will be more effective than if implemented separately in each state;

(e) While these actions are significant, there is a need to assess the trend of emissions statewide over the next several decades, and to take sufficient actions so that Washington meets its responsibility to contribute to the global actions needed to reduce the impacts and the pace of global warming;

(f) Actions to reduce greenhouse gas emissions will spur technology development and increase efficiency, thus resulting in benefits to Washington's economy and businesses; and

(g) Numerous states and nations have adopted emission reduction goals to assist emission sources with planning for changes in practices and technologies.

(2) The legislature further finds that companies that generate greenhouse gas emissions or manufacture products that generate such emissions are purchasing carbon credits from landowners and from other companies in order to provide carbon credits. Companies that are purchasing carbon credits would benefit from a program to trade and to bank carbon credits. Washington forests are one of the most effective resources that can absorb carbon dioxide from the atmosphere. Forests, and other planted lands and waters, provide carbon storage and mitigate greenhouse gas emissions. Washington contains the most productive forests in the world and both public and private landowners could benefit from a carbon storage trading and banking program. The legislature further finds that catastrophic forest fires are a major source of greenhouse gas emissions, and that federal and state forest land management should seek to manage forests to reduce the risk of such fires.

(3) The legislature intends by this act to establish goals for the statewide reduction in greenhouse gas emissions and reduction in petroleum use, and to adopt the governor's mechanism in Executive Order No. 07-02 to design and recommend a comprehensive set of measures to accomplish the goals. The legislature further intends by this act to authorize immediate actions in the electric power generation sector for the reduction of greenhouse gas emissions and to accelerate efficiency in the transportation sector.

NEW SECTION. **Sec. 2.** The following greenhouse gas emissions reduction and clean energy economy goals are established for Washington state:

(1) By 2020, reduce greenhouse gas emissions in the state to 1990 levels;

(2) By 2035, reduce greenhouse gas emissions in the state to twenty-five percent below 1990 levels;

(3) By 2050, the state will do its part to reach global climate stabilization levels by reducing emissions to fifty percent below 1990 levels or seventy percent below the state's expected emissions that year;

(4) By 2020, increase the number of clean energy sector jobs to twenty-five thousand from the eight thousand four hundred jobs the state had in 2004; and

(5) By 2020, reduce expenditures by twenty percent on fuel imported into the state by developing Washington resources and supporting efficient energy use.

NEW SECTION. **Sec. 3.** Executive Order No. 07-02 shall provide the mechanisms for identifying the policies and strategies necessary to achieve the economic and emission reduction goals of section 2 of this act.

NEW SECTION. **Sec. 4.** By December 31st of each even-numbered year beginning in 2010, the departments of ecology and community, trade, and economic development shall report to the governor and the appropriate committees of the senate and house of representatives the total greenhouse gas emissions for the preceding two years, and totals in each major source sector.

NEW SECTION. **Sec. 5.** (1) The legislature finds that:

(a) The United Nation's intergovernmental panel on climate change report, released February 2, 2007, states that evidence of the climate's warming "is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global mean sea level";

(b) Global warming will have serious adverse consequences on the economy, health, and environment of Washington;

(c) During the last several years, the state has taken significant strides towards implementing an environmentally and economically sound energy policy through reliance on energy efficiency, conservation, and renewable energy resources in order to promote a sustainable energy future that ensures an adequate and reliable energy supply at reasonable and stable prices;

(d) The governor, in Executive Order No. 07-02, has called for the reduction of Washington's emission of greenhouse gases to 1990 levels by 2020;

(e) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the state will rely on clean and efficient fossil fuel fired generation and will encourage the development of cost-effective, highly efficient, and environmentally sound supply resources to provide reliability and consistency with the state's energy priorities;

(f) It is vital to ensure all electric utilities internalize the significant and underrecognized cost of emissions and to reduce Washington's exposure to costs associated with future regulation of these emissions;

(g) A greenhouse gases emissions performance standard for new long-term financial commitments to electric generating resources will reduce potential exposure of Washington's consumers to future reliability problems in electricity supplies;

(h) The state of California recently enacted a law establishing a greenhouse gases emissions performance standard for electric utility procurement of baseload electric generation that is based on the emissions of a combined-cycle thermal electric generation facility fueled by natural gas;

(i) The legislature recognizes that state or federal legislation may be enacted and federal regulation may occur that would provide standards or programs that would preempt, make inconsistent, or render unnecessary emission standards or schedules established in this act; and

(j) The state of Washington has an obligation to provide clear guidance for the procurement of baseload electric generation to alleviate regulatory uncertainty while addressing risks that can affect the ability of electric utilities to make necessary and timely investments to ensure an adequate, reliable, and cost-effective supply of electricity.

(2) The legislature declares that:

(a) A greenhouse gases emissions performance standard for new long-term financial commitments for baseload electric generation should reduce financial risk to electric utilities and their customers from future pollution-control costs, without jeopardizing the state's commitment to lowest reasonable cost resources and the need to maintain a reliable regional electric system.

(b) A greenhouse gases emissions performance standard will complement the state's carbon dioxide mitigation policy for fossil-fueled thermal electric generation facilities under chapter 80.70 RCW.

(c) The need for long-term financial commitments for new baseload electric generation can be reduced over time through the deployment by electric utilities of technologies that improve the efficiency of electricity production, transmission, distribution, and consumption.

NEW SECTION. **Sec. 6.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(4) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(5) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(6) "Commission" means the Washington utilities and transportation commission.

(7) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(8) "Department" means the department of ecology.

(9) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(10) "Electric utility" means an electrical company or a consumer-owned utility.

(11) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(12) "Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(13) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(14) "Output-based methodology" means a greenhouse gases emissions performance standard that is expressed in pounds of greenhouse gases emitted per net megawatt-hour produced, factoring in the electrical equivalent of useful thermal energy employed for purposes other than the generation of electricity.

(15) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(16) "Power plant" means a facility for the generation of electricity that includes one or more generating units at the same location.

(17) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits but may result in incidental increases in generation capacity.

NEW SECTION. **Sec. 7.** (1) Beginning July 1, 2008, the greenhouse gases emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of one thousand one hundred pounds of greenhouse gases per megawatt-hour or the rate of emissions of greenhouse gases for a commercially available combined-cycle natural gas thermal electric generation facility that provides baseload electric generation. Even if their actual emissions are higher than the greenhouse gas emissions performance standard, all baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments. All electric generating facilities or power plants powered by renewable resources, as defined in RCW 19.285.030, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section. For the purposes of this subsection, "commercially available" means that at least one hundred plants of substantially the same design, specifications, and performance characteristics have been in commercial operation for at least three years. In determining the rate of emissions of greenhouse gases for baseload electric generation, the net emissions resulting from the production of electricity by the baseload electric generation shall be included.

(2) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gases emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(3) Carbon dioxide that is injected permanently in geological formations, so as to prevent releases into the atmosphere, in compliance with applicable laws and regulations may not be counted as emissions of the power plant in determining compliance with the greenhouse gases emissions performance standard.

(4) In adopting and implementing the greenhouse gases emissions performance standard, the department, in consultation with the commission, the Bonneville power administration, the western electricity coordination council, electric utilities, public interest representatives, and consumer representatives shall consider the effects of the greenhouse gases emissions performance standard on system reliability and overall costs to electricity customers.

(5) In developing and implementing the greenhouse gases emissions performance standard, the department shall, with assistance of the commission and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(6) The department shall adopt the greenhouse gases emissions performance standard by rule pursuant to chapter 34.05 RCW, the administrative procedure act. The department shall adopt rules to enforce the requirements of this section, and adopt procedures to verify the emissions of greenhouse gases

from any baseload electric generation supplied directly or under a contract subject to the greenhouse gases emissions performance standard to ensure compliance with the standard. Enforcement of the greenhouse gases emissions performance standard must begin immediately upon the establishment of the standard.

(7) In adopting the rules for implementing this section, the department shall include criteria to be applied in evaluating the carbon sequestration plan. The rules shall include:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological sequestration to commence within five years of plant operation;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule; and

(e) Provisions for public notice and comment on the carbon sequestration plan.

(8) A project under consideration by the energy facility site evaluation council before the adoption of rules in subsection (7) of this section is required to include all of the requirements of subsection (7) of this section in its carbon sequestration plan submitted to the department as part of the energy facility site evaluation council process. The department shall provide for timely hearings and public comment on the carbon sequestration plan.

(9) The department shall adopt the rules necessary to implement this section by June 30, 2008.

NEW SECTION. **Sec. 8.** (1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30, 2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall make a determination regarding the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity that complies with the greenhouse gases emissions performance standard established under section 7 of this act, as to the need for the resource, and the appropriateness of the specific resource selected. The commission shall take into consideration factors such as the company's forecasted loads, need for energy, power plant technology, expected costs, and other associated investment decisions. In addition, the commission shall provide for recovery of the prudently incurred capital and operating cost of these resources and may impose such conditions as it finds necessary to ensure that rates are fair, just, reasonable, and sufficient, coincident with the in-service date of the project or the effective date of the power purchase agreement.

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with the long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and ends on the effective date of the final decision by the commission regarding recovery in rates of these deferred costs. Creation of such a deferral account does not by itself determine whether recovery of any or all of these costs is appropriate.

(7) In establishing rates for each electrical company regulated under chapter 80.28 RCW, the commission shall adopt policies allowing an additional return on investments to encourage meeting energy requirements through distributed generation as defined in RCW 19.285.030, and to accelerate efficiencies in electric transmission and distribution systems that increase reliability and reduce energy losses or otherwise increase the efficiency of energy delivery to end-use consumers. These policies shall include but are not limited to adding an increment of two percent to the rate of return on common equity permitted on an electrical company's other investments for prudently incurred investments in distributed generation, and in measures that improve, as measured in kilowatt-hour savings, the overall efficiency of transmission, distribution, and end-use consumption of electricity through energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies. The rate of return increment must be allowed for a period, at the commission's discretion, of at least seven but not more than thirty years after the investment is first placed in the rate base. Measures or projects encouraged under this section are those for which construction or installation is begun after July 1, 2007, and before January 1, 2017, and which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use that is less than or equal to the incremental system cost per unit of energy delivered to end use from new baseload or peaking electric generation and that the electrical company could acquire to meet energy demand in the same time period.

(8) The commission shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under section 7 of this act.

(9) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(10) The commission shall adopt the rules necessary to implement this section by June 30, 2008.

NEW SECTION. **Sec. 9.** (1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) The governing board of a consumer-owned utility shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and

any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation pursuant to section 7 of this act, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.19 RCW to read as follows:

(1) During the biennium ending June 30, 2009, the department of general administration is authorized to purchase at least one hundred plug-in electric hybrid vehicles for state agency light duty vehicle uses, when commercially available at comparable life costs to other vehicles. The department of general administration shall assign these vehicles to departments and job functions that on average log the most miles driving light duty vehicles. The vehicles must bear a prominent designation as a plug-in electric hybrid vehicle. The department of general administration shall develop a purchasing contract under which state agencies and local governments may purchase plug-in electric hybrid vehicles.

(2) By December 31, 2009, the department of general administration shall provide a report to the transportation and energy committees of the senate and house of representatives on the acquisition of these vehicles and their operational and maintenance performance.

NEW SECTION. **Sec. 11.** The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that sections 1 and 2 of this act are intended to reverse the result of *Okeson v. City of Seattle,* No. 77888-4 (January 18, 2007), by expressly granting municipal utilities, public utility districts, and counties the statutory authority to engage in mitigation activities to offset their utility's impact on the environment from electric generation.

NEW SECTION. **Sec. 12.** A new section is added to chapter 35.92 RCW to read as follows:

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with water, with electricity for lighting and other purposes, or with service from sewerage, storm water, surface water, or solid waste handling facilities, may develop and make publicly available a plan to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases resulting from power generation that the utility owns, leases, uses, contracts for, or otherwise controls.

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with water, with electricity for lighting and other purposes, or with service from sewerage, storm water, surface water, or solid waste handling facilities, may, as part of its power generating operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation, including any power purchases. The mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a utility that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. **Sec. 13.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A county may develop and make publicly available a plan for the county to reduce its greenhouse gases emissions or achieve no-net emissions from all power generating sources of greenhouse gases it owns, operates, leases, uses, contracts for, or otherwise controls.

(2) Any county may reduce or mitigate the environmental impacts of its power generating operations, such as emissions of greenhouse gases. The mitigation may include, but is not limited to, all greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of carbon offsets or credits. Ratepayer funds, fees, or other revenue dedicated to a power generating function performed by a county may be spent to reduce or mitigate the environmental impact of greenhouse gases emitted as a result of that function. If a state greenhouse gases registry is established, the county that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. **Sec. 14.** A new section is added to chapter 54.04 RCW to read as follows:

(1) A public utility district may develop and make publicly available a plan for the district to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases resulting from power generation that the district owns, leases, uses, contracts for, or otherwise controls.

(2) A public utility district may, as part of its utility power generating operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its power generating operation and any power purchases. Mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a public utility district that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. **Sec. 15.** For the purposes of sections 5 through 9 of this act, the department and the commission shall review the greenhouse gases emission performance standard established in this chapter to determine need, applicability, and effectiveness no less than every five years following the effective date of this section, or upon implementation of a federal or state law or rule regulating carbon dioxide emissions of electrical utilities, and report to the legislature.

NEW SECTION. **Sec. 16.** (1) The office of Washington state climatologist is created.

(2) The office of Washington state climatologist consists of the director of the office, who is the state climatologist, and appropriate staff and administrative support as necessary to carry out the powers and duties of the office as enumerated in section 17 of this act.

(3) The director of the office of Washington state climatologist must be appointed jointly by the president of Washington State University and the president of the University of Washington. The office of Washington state climatologist is administered as determined jointly by these two presidents.

NEW SECTION. **Sec. 17.** The office of Washington state climatologist has the following powers and duties:

(1) To serve as a credible and expert source of climate and weather information for state and local decision makers and agencies working on drought, flooding, climate change, and other related issues;

(2) To gather and disseminate, and where practicable archive, in the most cost-effective manner possible, all climate and weather information that is or could be of value to policy and decision makers in the state;

(3) To act as the representative of the state in all climatological and meteorological matters, both within and outside of the state, when requested by the legislative or executive branches of the state government;

(4) To prepare, publish, and disseminate climate summaries for those individuals, agencies, and organizations whose activities are related to the welfare of the state and are affected by climate and weather;

(5) To supply critical information for drought preparedness and emergency response as needed to implement the state's drought contingency response plan maintained by the department of ecology under RCW 43.83B.410, and to serve as a member of the state's drought water supply and emergency response committees as may be formed in response to a drought event;

(6) To conduct and report on studies of climate and weather phenomena of significant socioeconomic importance to the state; and

(7) To evaluate the significance of natural and man-made changes in important features of the climate affecting the state, and to report this information to those agencies and organizations in the state who are likely to be affected by these changes.

NEW SECTION. **Sec. 18.** Sections 1 through 4 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 19.** Sections 5 through 9 and 15 of this act constitute a new chapter in Title 80 RCW.

NEW SECTION. **Sec. 20.** Sections 16 and 17 of this act constitute a new chapter in Title 43 RCW."

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

MOTION

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

On page 2, beginning on line 19 of the amendment, strike all of subsection (3)

Beginning on page 2, line 27 of the amendment, strike all of sections 2 and 3

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

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Pridemore spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 19 to the striking amendment to Substitute Senate Bill No. 6001.

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

MOTION

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

On page 13, line 9 of the amendment, after "environment" insert "from electric generation"

On page 13, line 18 of the amendment, after "gases" insert "resulting from power generation"

On page 13, line 24 of the amendment, after "its" strike "utility" and insert "power-generating"

On page 13, line 26 of the amendment, after "its" insert "power-generating"

On page 14, line 3 of the amendment, after "all" insert "power-generating"

On page 14, line 6 of the amendment, after "its" insert "power-generating"

On page 14, line 12 of the amendment, after "to a" strike "particular" and insert "power-generating"

On page 14, line 23 of the amendment, after "gases" insert "resulting from power generation"

On page 14, line 25 of the amendment, after "its utility" insert "power-generating"

On page 14, line 27 of the amendment, after "its" insert "power-generating"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Pridemore spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 13, line 9 to the striking amendment to Substitute Senate Bill No. 6001.

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

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Keiser to the striking amendment be adopted.

On page 3, line 10 of the amendment, after "act." insert "Consistent with the Executive Order's directive to seek a healthier and more prosperous future for Washington state, agency and stakeholder representatives participating in the Washington climate change challenge shall also seek emission reduction policies and strategies that, to the maximum extent possible, minimize economic disruptions and protect jobs for Washington state workers, citizens, and businesses, while avoiding policies and strategies that would result in the transfer or outsourcing of economic advantages or jobs to other states, regions, or nations."

Senators Honeyford and Poulsen spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Keiser on page 3, line 10 to the striking amendment to Substitute Senate Bill No. 6001.

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

MOTION

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

On page 12, after line 32, insert the following:

"(2) The use of hybrid vehicles shall include an economic analysis of the total life-cycle cost to the state over the vehicle's estimated useful life, including energy inputs into the production of the vehicle, fuel usage, and all related costs of selection, acquisition, operation, maintenance, and disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of the vehicle's estimated useful life."

Renumber the remaining subsection consecutively and correct any internal references accordingly.

Senators Honeyford and Pridemore spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 12, after line 32 to the striking amendment to Substitute Senate Bill No. 6001.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore as amended to Substitute Senate Bill No. 6001.

The motion by Senator Pridemore carried and the striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "change;" strike the remainder of the title and insert "adding a new section to chapter 43.19 RCW; adding a new section to chapter 35.92 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 54.04 RCW; adding new chapters to Title 43 RCW; adding a new chapter to Title 80 RCW; and creating a new section."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 6001 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore spoke in favor of passage of the bill.

Senators Honeyford, Sheldon, Parlette spoke against passage of the bill.

PARLIAMENTARY INQUIRY

Senator Parlette: "Mr. President, if this amendment has been read by the Secretary, as it says by Senate Rule 64, because it's an important issue, not just on this bill, but on all the bills that we consider that have major policy decision. We had a big hold up yesterday on the Governor's Blue Ribbon Commission bill because the Code Reviser could not keep caught up with the strikers. Those of us who were making amendments couldn't stay caught up so it slowed us down here in this process so, something to discuss in the future about rules of the Senate. Anyway, I just wondered if the Secretary of the Senate had read it? Thank you very much."

REPLY BY THE PRESIDENT

President Owen: "Senator Parlette, in responding to your point of inquiry. The issue of the Secretary reading is relevant to reading in the amendment to you. Any member can ask amendment to be read in full. The customary procedure is for the amendment to be read. When it is long, for the President to go to last line. However, any member can request an amendment to be read in full to the body. It's not whether the Secretary has sat in his office and read the amendment himself."

Senators Brown and Oemig spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6001.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6001 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Tom and Weinstein - 35

Voting nay: Senators Brandland, Clements, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 13

Excused: Senator Delvin - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6001, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6001 was immediately transmitted to the House of Representatives.

MOTION

At 12:34 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

SECOND READING

SENATE BILL NO. 5953, by Senators Eide, Stevens, Delvin, Regala, Sheldon, Benton, Marr, Shin, Rasmussen and Holmquist

Increasing penalties for acts of domestic violence involving strangulation.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 5953 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and Schoesler spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Rockefeller was excused.

MOTION

On motion of Senator Brandland, Senators Benton, Clements, McCaslin, Parlette, Pflug and Roach were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5953.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5953 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Carrell,

Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Absent: Senator Haugen - 1

Excused: Senators Benton, Delvin, McCaslin and Rockefeller - 4

SENATE BILL NO. 5953, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5123, by Senators Hobbs, Kilmer, Roach, Jacobsen, Shin, Fairley, Marr, Prentice, Carrell, Murray, Rasmussen, Keiser, Berkey, Haugen, Franklin, Hatfield, Eide, Kauffman, Fraser and McAuliffe

Protecting persons with veteran or military status from discrimination.

The measure was read the second time.

MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5123 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 5383, by Senators Hargrove, Poulsen, Hatfield, Rockefeller, Rasmussen and Kohl-Welles

Modifying provisions of the energy freedom program.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 5383 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5383.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5383 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Delvin - 1

SENATE BILL NO. 5383, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5421, by Senators Fraser, Morton, Poulsen, Swecker, Marr, Regala, Rockefeller, Pridemore, Oemig, Honeyford, Rasmussen, Shin, Kohl-Welles and Kline

Concerning environmental covenants.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 5421 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5421.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5421 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senator Holmquist - 1

Excused: Senators Delvin and McCaslin - 2

SENATE BILL NO. 5421, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5881, by Senators Poulsen, Delvin, Regala and Fraser

Modifying water power license fees.

MOTIONS

On motion of Senator Poulsen, Substitute Senate Bill No. 5881 was substituted for Senate Bill No. 5881 and the substitute bill was placed on the second reading and read the second time.

Senator Poulsen spoke in favor of the substitute bill.

On motion of Senator Poulsen, the rules were suspended, Substitute Senate Bill No. 5881 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Morton and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5881.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5881 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 39

Voting nay: Senators Brandland, Carrell, Holmquist, Honeyford, McCaslin, Morton, Parlette, Schoesler and Stevens - 9

Excused: Senator Delvin - 1

SUBSTITUTE SENATE BILL NO. 5881, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Senate Bill No. 5123 which had been deferred earlier in the day.

MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 5123 was not substituted for Senate Bill No. 5123 and the substitute bill was not adopted.

Senator Hobbs spoke in favor of the motion.

MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5123 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs, Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5123.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5123 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Delvin - 1

SENATE BILL NO. 5123, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

March 9, 2007

MR. PRESIDENT:
The House has passed the following bills:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1103,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1251,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1374,
SECOND SUBSTITUTE HOUSE BILL NO. 1422,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1705,
ENGROSSED HOUSE BILL NO. 1743,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2053,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2007

MR. PRESIDENT:
The House has passed the following bills:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1260,
HOUSE BILL NO. 1285,
SUBSTITUTE HOUSE BILL NO. 1322,
HOUSE BILL NO. 1349,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1461,
SUBSTITUTE HOUSE BILL NO. 1590,
SECOND SUBSTITUTE HOUSE BILL NO. 1636,
SUBSTITUTE HOUSE BILL NO. 1669,
SUBSTITUTE HOUSE BILL NO. 1837,
SECOND SUBSTITUTE HOUSE BILL NO. 1992,
SUBSTITUTE HOUSE BILL NO. 2010,
HOUSE BILL NO. 2134,
HOUSE BILL NO. 2146,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2268,
SUBSTITUTE HOUSE BILL NO. 2325,
SUBSTITUTE HOUSE BILL NO. 2361,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2007

MR. PRESIDENT:
The House has passed the following bills:
ENGROSSED HOUSE BILL NO. 1413,
ENGROSSED HOUSE BILL NO. 1956,
HOUSE BILL NO. 2079,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

At 2:11 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:59 p.m. by President Owen.

MOTION

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

SECOND READING

SENATE BILL NO. 6044, by Senators Rockefeller and Swecker

Regarding the removal of derelict vessels.

MOTION

On motion of Senator Rockefeller, Second Substitute Senate Bill No. 6044 was substituted for Senate Bill No. 6044 and the second substitute bill was placed on the second reading and read the second time.

POINT OF ORDER

Senator Zarelli: "I had an amendment on the bar originally to this bill and all of a sudden we have a striker. I'm wondering how that follows?"

REPLY BY THE PRESIDENT

President Owen: "Me too. Pilot error, co-pilot error. Thank you Senator Zarelli, they're being passed out now."

POINT OF ORDER

Senator Zarelli: "Thank you Mr. President. I think that amendment is written to the original bill so I don't know if it follows this striker and so I'm not sure how to proceed at this point."

REPLY BY THE PRESIDENT

President Owen: "Senator Zarelli, we'll check it up against the striker."

MOTION

On motion of Senator Brandland, Senator Roach was excused.

MOTION

On motion of Senator Regala, Senator Oemig was excused.

MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 6044 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 6117, by Senators Fraser, Poulsen, Rockefeller, Marr, Kohl-Welles and Kline

Regarding reclaimed water.

MOTION

On motion of Senator Fraser, Second Substitute Senate Bill No. 6117 was substituted for Senate Bill No. 6117 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser and Poulsen be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Since the 1992 enactment of the reclaimed water act, the value of reclaimed water as a new source of supply has received increasing recognition across the state and across the nation. New information on the matters in this section has increased awareness of the need to better manage, protect, and conserve water resources and to use reclaimed water in that process. The legislature now finds the following:

(a) Global warming and climate change. Global warming has reduced the volume of glaciers in the North Cascade mountains to between eighteen to thirty-two percent since 1983, and up to seventy-five percent of the glaciers are at risk of disappearing under projected temperatures for this century. Mountain snow pack has declined at virtually every measurement location in the Pacific Northwest, reducing the proportion of annual river flow to Puget Sound during summer months by eighteen percent since 1948. Global warming has also shifted peak stream flows earlier in the year in watersheds covering much of Washington state, including the Columbia river basin, jeopardizing the state's salmon fisheries. The state's recent report on the economic impacts of climate change indicate that water resources will be one of the areas most affected, and that many utilities may need to invest major resources in new supply and conservation measures. Developing and implementing adaptation strategies, such as water conservation that includes the use of reclaimed water, can extend existing water supply systems to help address the global warming impacts. In particular, because reclaimed water uses existing sources of supply and fairly constant base flows of wastewater, it has year-round dependability, without regard to any given year's climate variability. This is particularly important during summer months, when outdoor demands peak and stream flows are critical for fish.

(b) Puget Sound. The governor has initiated a Puget Sound partnership, with a request for an initial strategy to address high priority problems. In December, the partnership delivered a strategy that includes expanded use of reclaimed water both in order to improve the Puget Sound's water quality by reducing wastewater discharges and by replacing current sources of supply for nonpotable uses that detrimentally affect stream flows and habitat.

(c) Salmon recovery. The federal fisheries services recently approved a salmon recovery plan for the Puget Sound, which was developed across multiple watersheds by numerous local governments, tribal governments, and other parties to achieve sustainable populations of salmon and other species. That plan includes an adaptive management component where continued efforts will be made to address issues, including problems with instream flows, identified as a limiting factor in virtually all the watersheds, through strategies that will be developed by regional and watershed implementation groups. A potentially significant strategy may be the substitution of reclaimed water for nonpotable uses where it will benefit streams and habitat.

(d) Water quality. Increasingly stringent federal standards for water quality are forcing a number of communities to develop strategies for wastewater treatment that, in addition to providing higher treatment levels, will reduce the quantity of discharges. For many of those communities, facilities to produce reclaimed water will be a necessary approach to achieve both water quality and water supply objectives.

(e) Watershed plans. Under the watershed planning act of 1997, approximately two-thirds of the watersheds in the state have used a bottoms-up approach to developing collaborative plans for meeting future water supply needs. Many of those plans include the use of reclaimed water for meeting those needs.

(f) Columbia river water management. Pursuant to legislation and funding provided in 2006, federal, state, and local governments and agencies, along with tribal governments, user groups, environmental organizations, and others are developing a comprehensive strategy for the mainstem Columbia that will ensure supplies for future growth while protecting stream flows and fish habitat. The strategy will

include multiple tools that may include the potential development of new storage, conservation measures, and water use efficiency. One pathway toward conservation and efficiency is likely to be identification and implementation of reclaimed water opportunities.

(g) Development schedule. The time frame required to plan, design, construct, and begin use of reclaimed water can be extensive due to the public information and acceptance efforts required in addition to planning, design, and environmental assessment required for infrastructure projects. This extended time frame necessitates the initiation of reclaimed water projects as soon as possible.

(2) It is therefore the intent of the legislature to:

(a) Effectuate and reinvigorate the original intent behind the reclaimed water act to expand the use of reclaimed water for nonpotable uses throughout the state;

(b) Restate and emphasize the use of reclaimed water as a matter of water resource management policy;

(c) Address current barriers to the use of reclaimed water, where changes in state law will resolve such issues;

(d) Develop information from the state agencies responsible for promoting the use of reclaimed water and address regulatory, financial, planning, and other barriers to the expanded use of reclaimed water, relying on state agency expertise and experience with reclaimed water;

(e) Facilitate achieving state, regional, and local objectives through use of reclaimed water for water supply purposes in high priority areas of the state, and in regional and local watershed and water planning;

(f) Provide planning tools to local governments to incorporate reclaimed water and related water conservation into land use plans, consistent with water planning;

(g) Expand the scope of work of the advisory committee established under chapter 279, Laws of 2006 to identify other reclaimed water issues that should be addressed; and

(h) Provide initial funding, and evaluate options for providing additional direct state funding, for reclaimed water projects.

Sec. 2. RCW 90.46.005 and 2001 c 69 s 1 are each amended to read as follows:

The legislature finds that by encouraging the use of reclaimed water while assuring the health and safety of all Washington citizens and the protection of its environment, the state of Washington will continue to use water in the best interests of present and future generations.

To facilitate the immediate use of reclaimed water ((~~as soon as is practicable, the legislature encourages the cooperative efforts of the public and private sectors and the use of pilot projects~~)) for uses approved by the departments of ecology and health, the state shall expand both direct financial support and financial incentives for capital investments in water reuse and reclaimed water to effectuate the goals of this chapter. The legislature further directs the department of health and the department of ecology to coordinate efforts towards developing an efficient and streamlined process for creating and implementing processes for the use of reclaimed water.

It is hereby declared that the people of the state of Washington have a primary interest in the development of facilities to provide reclaimed water to replace potable water in nonpotable applications, to supplement existing surface and ground water supplies, and to assist in meeting the future water requirements of the state.

The legislature further finds and declares that the utilization of reclaimed water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife habitat creation and enhancement purposes, including wetland enhancement, will contribute to the peace, health, safety, and welfare of the people of the state of Washington. To the extent reclaimed water is appropriate for beneficial uses, it should be so used to preserve potable water for drinking purposes, contribute to the restoration and protection of instream flows that are crucial to preservation of the state's salmonid fishery resources, contribute to the restoration of Puget Sound by reducing wastewater discharge, provide a drought resistant source of water supply for nonpotable needs, and be a source of supply integrated into state, regional, and local strategies to respond to population growth and global warming. Use of reclaimed water constitutes the development of new basic water supplies needed for future generations and local and regional water management planning should consider coordination of infrastructure, development, storage, water reclamation and reuse, and source exchange as strategies to meet water demands associated with population growth and impacts of global warming.

The legislature further finds and declares that the use of reclaimed water is not inconsistent with the policy of antidegradation of state waters announced in other state statutes, including the water pollution control act, chapter 90.48 RCW and the water resources act, chapter 90.54 RCW.

The legislature finds that other states, including California, Florida, and Arizona, have successfully used reclaimed water to supplement existing water supplies without threatening existing resources or public health.

It is the intent of the legislature that the department of ecology and the department of health undertake the necessary steps to encourage the development of water reclamation facilities so that reclaimed water may be made available to help meet the growing water requirements of the state.

The legislature further finds and declares that reclaimed water facilities are water pollution control facilities as defined in chapter 70.146 RCW and are eligible for financial assistance as provided in chapter 70.146 RCW. The legislature finds that funding demonstration projects will ensure the future use of reclaimed water. The demonstration projects in RCW 90.46.110 are varied in nature and will provide the experience necessary to test different facets of the standards and refine a variety of technologies so that water purveyors can begin to use reclaimed water technology in a more cost-effective manner. This is especially critical in smaller cities and communities where the feasibility for such projects is great, but there are scarce resources to develop the necessary facilities.

The legislature further finds that the agricultural processing industry can play a critical and beneficial role in promoting the efficient use of water by having the opportunity to develop and reuse agricultural industrial process water from food processing.

Sec. 3. RCW 90.46.120 and 2003 1st sp.s. c 5 s 13 are each amended to read as follows:

(1) The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use ((~~and~~)), distribution ((~~of the~~)), and the recovery from aquifer storage of reclaimed water by the owner of the wastewater treatment facility is exempt from the permit requirements of RCW 90.03.250 and 90.44.060. Revenues derived from the reclaimed water facility shall be used only to offset the cost of operation of the wastewater utility fund or other applicable source of system-wide funding.

(2) If the proposed use or uses of reclaimed water are intended to augment or replace potable water supplies or create the potential for the development of additional potable water supplies, such use or uses shall be considered in the development of ((~~the~~)) any regional water supply plan or plans addressing potable water supply service by multiple water purveyors. Such water supply plans include plans developed by multiple jurisdictions under the relevant provisions of chapters 43.20, 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW. The method by which such plans are approved shall remain unchanged. The owner of a wastewater treatment facility that proposes to reclaim water shall be included as a participant in the development of such regional water supply plan or plans.

(3) Where opportunities for the use of reclaimed water exist within the period of time addressed by a water system plan, a water supply plan, or a coordinated water system plan developed under chapters 43.20 ((~~or~~)), 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW, these plans must be developed and coordinated to ensure that opportunities for reclaimed water are evaluated. The requirements of this subsection (3) do not apply to water system

plans developed under chapter 43.20 RCW for utilities serving less than one thousand service connections.

Sec. 4. RCW 90.46.130 and 2002 c 329 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, facilities that reclaim water under this chapter shall not impair any existing water right downstream from any freshwater discharge points of such facilities unless there is compensation or mitigation for such impairment ((~~is agreed to by the holder of the affected water right~~)). For purposes of this section, there is no impairment in the following circumstances: (i) There is recovery and use of reclaimed water in lieu of discharge of wastewater, which leads to return flows to the water body in substantially the same quantity and location as a wastewater discharge previously authorized by a national pollutant discharge elimination system wastewater discharge permit or state permit; (ii) there is discharge of reclaimed water or recovery and use of reclaimed water in lieu of the discharge of wastewater into marine water; and (iii) proposals to replace failing or inadequate septic facilities with a reclaimed water facility or project that is part of a new or expanded wastewater treatment and reclaimed water facility. This presumption only applies if there is no claim of impairment by an existing downstream water right after compliance with the requirements in subsection (3) of this section.

(b) Nothing in this section may be construed as affecting or diminishing the right to use reclaimed water or the exemption from water right permit requirements provided to the owner of the wastewater treatment facility in RCW 90.46.120. Further, nothing in this section may be construed as affecting or diminishing the ability of the owner of a wastewater treatment facility to modify its facilities or discharges in order to comply with state or federal water quality standards or permit requirements under chapter 90.48 RCW.

(2) Agricultural water use of agricultural industrial process water and use of industrial reuse water under this chapter shall not impair existing water rights within the water source that is the source of supply for the agricultural processing plant or the industrial processing and, if the water source is surface water, the existing water rights are downstream from the agricultural processing plant's discharge points existing on July 22, 2001, or from the industrial processing's discharge points existing on June 13, 2002.

(3) For purposes of determining a claim of impairment under subsection (1)(a) and (b) of this section, of a downstream water right existing August 18, 1997, the applicant for a reclaimed water permit shall publish notice of an application for a permit for a reclaimed water facility in the same manner as provided for in RCW 90.48.170. If the department receives a claim of impairment within thirty days of the last publication of notice, the department shall investigate the claim of impairment and issue a written decision. The decision shall include any conditions the department finds necessary to mitigate any impairment. The decision shall be issued within one hundred eighty days and shall be appealable by any party pursuant to RCW 43.21B.310 upon the issuance of the decision or as part of the overall reclaimed water permit upon the issuance of a reclaimed water permit. This section shall not be construed as exempting a reclaimed water project from the provisions of chapter 43.21C RCW.

(4) This section shall not be construed as establishing any right for a downstream water right holder to the continued discharge from an upstream wastewater treatment plant or reclaimed water facility.

Sec. 5. 2006 c 279 s 3 (uncodified) is amended to read as follows:

(1) In order to identify and pursue other measures to facilitate achieving the objectives in RCW 90.46.005 for expanded, appropriate, and safe use of reclaimed water, the department of ecology and the department of health shall provide the legislature with relevant information through periodic progress reports, as provided in this section.

(2) The department of ecology ((~~must present~~)) shall provide interim reports to the appropriate committees of the legislature by January 1, 2008, and January 1, 2009, that summarize the steps taken to that date towards the final rule making required by ((~~section 1 of this act~~)) RCW 90.46.015. The reports ((~~must~~)) shall include, at a minimum, a summary of participation in the rule advisory ((~~group and~~)) committee, the topics considered by the department, and issues identified by the rule advisory committee as barriers to expanded use of reclaimed water that may not be addressed within the rules to be adopted by the department.

(3) In addition to subsection (2) of this section, the department shall form a subtask force consisting of not more than ten members chosen from the existing rule advisory committee to further identify and recommend actions to increase the promotion of reclaimed water as a water supply and water resource management option. At a minimum, the subtask force shall consider (a) issues assigned by the rule advisory committee; (b) staffing levels, resources, and roles within both state agencies; (c) optimizing organizational structure; and (d) unresolved legal issues specific to reclaimed water use. Information regarding these topics shall be appended to the required interim reports as the topics are considered by the advisory group.

Sec. 6. RCW 90.82.043 and 2003 1st sp.s. c 4 s 3 are each amended to read as follows:

(1) Within one year of accepting funding under RCW 90.82.040(2)(e), the planning unit must complete a detailed implementation plan. Submittal of a detailed implementation plan to the department is a condition of receiving grants for the second and all subsequent years of the phase four grant.

(2) Each implementation plan must contain strategies to provide sufficient water for: (a) Production agriculture; (b) commercial, industrial, and residential use; and (c) instream flows. Each implementation plan must contain timelines to achieve these strategies and interim milestones to measure progress.

(3) The implementation plan must clearly define coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms.

(4) In developing the implementation plan, the planning unit must consult with other entities planning in the watershed management area and identify and seek to eliminate any activities or policies that are duplicative or inconsistent.

(5)(a) By December 1, 2003, and by December 1st of each subsequent year, the director of the department shall report to the appropriate legislative standing committees regarding statutory changes necessary to enable state agency approval or permit decision making needed to implement a plan approved under this chapter.

(b) Beginning with the December 1, 2007, report, and then every two years thereafter, the director shall include in each report the extent to which reclaimed water has been identified in the watershed plans as potential sources or strategies to meet future water needs, and provisions in any watershed implementation plans that discuss barriers to implementation of the water reuse elements of those plans. The department's report shall include an estimate of the potential cost of reclaimed water facilities and identification of potential sources of funding for them.

NEW SECTION. **Sec. 7.** (1) By January 1, 2008, the department of health shall file a brief report with the appropriate committees of the legislature on the general status of:

(a) Development of permit fees for industrial and commercial uses of reclaimed water as required by RCW 90.46.030;

(b) Development of standards and guidelines for greywater use as required by RCW 90.46.140; and

(c) Permitting of greywater use by local health officers and plumbing officials in accordance with standards and guidelines developed pursuant to RCW 90.46.140.

(2) The report shall also identify:

(a) A general description of the number, type, and location of reclaimed water opportunities included in water supply and coordinated water system plans since 2003, as required by RCW 90.46.140;

(b) The best information currently available regarding potential public health risks associated with reclaimed water, if any, any known occurrences of any public health incidents associated with reclaimed water use, the approaches to reclaimed water-related public health issues taken in other states, and resource needs of the department to evaluate any known public health risks; and

(c) A description of a basic public information and public acceptance program necessary to generate public support for the beneficial use of reclaimed water.

(3) In order to ensure brevity of the report, the department should include references to existing documents, reports, internet sites, and other sources of detailed information on the foregoing issues.

Sec. 8. RCW 90.54.020 and 1997 c 442 s 201 are each amended to read as follows:

Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:

(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial.

(2) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less costs including opportunities lost.

(3) The quality of the natural environment shall be protected and, where possible, enhanced as follows:

(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:

(i) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(ii) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(4) The development of multipurpose water storage facilities shall be a high priority for programs of water allocation, planning, management, and efficiency. The department, other state agencies, local governments, and planning units formed under section 107 or 108 of this act shall evaluate the potential for the development of new storage projects and the benefits and effects of storage in reducing damage to stream banks and property, increasing the use of land, providing water for municipal, industrial, agricultural, power generation, and other beneficial uses, and improving stream flow regimes for fisheries and other instream uses.

(5) Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.

(6) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of fishery resources in the planning for and construction of water impoundment structures and other artificial obstructions.

(7) Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state. In addition to traditional development approaches, improved water use efficiency ((~~and~~)), conservation, and use of reclaimed water shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state. Use of reclaimed water should be employed through state and local planning and programs with incentives for state financial assistance recognizing programs and plans that encourage the use of conservation and reclaimed water use, and state agencies shall continue to review and reduce regulatory barriers and streamline permitting for the use of reclaimed water where appropriate.

(8) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public.

(9) Full recognition shall be given in the administration of water allocation and use programs to the natural interrelationships of surface and ground waters.

(10) Expressions of the public interest will be sought at all stages of water planning and allocation discussions.

(11) Water management programs, including but not limited to, water quality, flood control, drainage, erosion control and storm runoff are deemed to be in the public interest.

Sec. 9. RCW 90.54.180 and 1989 c 348 s 5 are each amended to read as follows:

Consistent with the fundamentals of water resource policy set forth in this chapter, state and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out water use efficiency and conservation programs and practices consistent with the following:

(1) Water efficiency and conservation programs should utilize an appropriate mix of economic incentives, cost share programs, regulatory programs, and technical and public information efforts. Programs which encourage voluntary participation are preferred.

(2) Increased water use efficiency and reclaimed water should receive consideration as a potential source of water in state and local water resource planning processes. In determining the cost-effectiveness of alternative water sources, consideration should be given to the benefits of conservation, waste water recycling, and impoundment of waters. Where reclaimed water is a feasible replacement source of water, it shall be used by state agencies and state facilities for nonpotable water uses in lieu of the use of potable water. For purposes of this requirement, feasible replacement source means (a) the reclaimed water is of adequate quality and quantity for the proposed use; (b) the proposed use is approved by the departments of ecology and health; (c) the reclaimed water can be reliably supplied by a local public agency or public water system; and (d) the cost of the reclaimed water is reasonable relative to the costs of conservation or other potentially available supplies of potable water, after taking into account all costs and benefits, including environmental costs and benefits.

(3) In determining the cost-effectiveness of alternative water sources, full consideration should be given to the benefits of storage which can reduce the damage to stream banks and property, increase the utilization of land, provide water for municipal, industrial, agricultural, and other beneficial uses, provide for the generation of electric power from renewable resources, and improve stream flow regimes for fishery and other instream uses.

(4) Entities receiving state financial assistance for construction of water source expansion or acquisition of new

sources shall develop, and implement if cost-effective, a water use efficiency and conservation element of a water supply plan pursuant to RCW 43.20.230(1).

(5) State programs to improve water use efficiency should focus on those areas of the state in which water is overappropriated; areas that experience diminished streamflows or aquifer levels; regional areas that the governor has identified as high priority for investments in improved water quality and quantity, including the Spokane river, the Columbia river basin, and the Puget Sound; areas most likely to be affected by global warming; and areas where projected water needs, including those for instream flows, exceed available supplies.

(6) Existing and future generations of citizens of the state of Washington should be made aware of the importance of the state's water resources and the need for wise and efficient use and development of this vital resource. In order to increase this awareness, state agencies should integrate public ((~~education~~)) information programs on increasing water use efficiency into existing public information efforts. This effort shall be coordinated with other levels of government, including local governments and Indian tribes.

NEW SECTION. **Sec. 10.** A new section is added to chapter 58.17 RCW to read as follows:

In determining whether a proposed short plat, short subdivision, or subdivision meets the requirements for potable water supplies as required under RCW 58.17.060 or 58.17.110, and otherwise serves the public use and interest, the city, town, or county may require:

(1) Conformance to any water conservation ordinances or plans adopted by the city, town, or county;

(2) Use of water conservation measures consistent with any regional watershed plan adopted under chapter 90.82 RCW, or any regional water supply plan as described in RCW 90.46.120 if the city or county determines that the measures contained within such a regional supply plan conform to its respective conservation ordinances and water, sewer, and comprehensive land use plan; and

(3) Use of reclaimed water where potable water is not required, if it is consistent with any applicable local ordinance adopted for water reuse or use of reclaimed water.

NEW SECTION. **Sec. 11.** A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of ecology shall establish a subtask force from the existing rule advisory committee by July 31, 2007, composed of no more than ten members including a representative from the department of ecology, who shall serve as chair, a representative from the department of health, and representatives from city, county, and water-sewer district utilities, and the environmental and business communities. By January 1, 2008, the subtask force shall submit to the appropriate legislative committees a recommendation for a long-term dedicated funding program to construct reclaimed water facilities. To minimize the administrative burden, the subtask force shall work toward a coordinated effort with the current clean water state revolving fund and centennial clean water fund integrated program under which reclaimed water projects with a water quality benefit are currently eligible and shall review the "2006 Inventory of State Infrastructure Programs" produced by the joint legislative audit and review committee. The subtask force shall also review current existing conservation and water reuse plans or programs for cities, counties, and districts and provide a report to the appropriate legislative committees regarding the number, general nature, and extent that conservation and reclaimed water use is identified or incorporated into such plans. The subtask force also shall consider, and recommend, provisions on the inclusion of reclaimed water use criteria or requirements as an element of water use efficiency requirements required under RCW 70.119A.180 and for water system, public water system, and/or regional water plans as required under chapters 43.20 and 70.119 RCW.

(2) The recommendation shall provide a comprehensive funding, loan, and grant program that includes the following:

(a) Eligibility requirements: Eligible components should include the additional water reclamation components to treat wastewater effluent to reclaimed water standards, distribution pump stations, storage, trunk lines, and distribution lines, and multiple-purpose projects in proportion to the costs allocated to reclaimed water;

(b) Competitive process for funding: The funding should be competitive and establish a maximum percentage or maximum funding amount available to any applicant;

(c) Priorities for funding that target reclaimed water projects ready to proceed, local support for the project, projects in areas that have adopted mandatory use ordinances or letters of intent to execute user contracts, projects providing broader public benefits to environmental water quality or water resource needs such as Puget Sound restoration, Columbia river water management strategies, water quality improvements, wetlands habitat, and instream flows, projects with benefits that clearly extend to citizens other than the utility ratepayers; and

(d) A proposed grant program for projects in identified high priority areas.

NEW SECTION. **Sec. 12.** A new section is added to chapter 90.46 RCW to read as follows:

(1) The legislature finds that the state should take a lead in increasing the visibility of the use of reclaimed water.

(2) The department of general administration shall develop a proposal to provide a comprehensive campus-wide plan for the use of nonpotable water in lieu of the use of potable water for irrigation and related outdoor uses, to serve as a demonstration project for the use of reclaimed water. The department of general administration shall work with the city of Olympia to provide a report to the legislature by December 1, 2007, of the needed infrastructure, cost, and potential funding sources for the project."

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

MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 6117 was deferred and the bill held its place on the second reading calendar.

PERSONAL PRIVILEGE

Senator Stevens: “I just would like to pass the word on to the members. Senator Roach, I know, would appreciate your prayers. She is on her way to her father. He is dying so I just thought it would be nice if all you would remember her in your prayers over the weekend. They don’t know the time of course but it is imminent. Thank you.”

SECOND READING

SENATE BILL NO. 5372, by Senators Rockefeller, Swecker, Poulsen, Marr, Keiser, Shin, Kline, McAuliffe, Fraser, Kilmer and Murray

Creating the Puget Sound partnership.

MOTION

On motion of Senator Rockefeller, Substitute Senate Bill No. 5372 was substituted for Senate Bill No. 5372 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"**PART 1**

PUGET SOUND PARTNERSHIP

NEW SECTION. **Sec. 101.** FINDINGS AND INTENT. (1) The legislature finds that Puget Sound and related inland marine waterways, such as the Strait of Juan de Fuca and Hood Canal, and the lakes, rivers, and streams that flow to them represent a unique and unparalleled resource to the state of Washington with a rich and varied range of freshwater and marine organisms, comprising an interdependent, sensitive communal ecosystem. Residents of this region enjoy a way of life centered around these waters, featuring accessible recreational opportunities, world-class port facilities and water transportation systems, harvest of marine food resources, shoreline-oriented life styles, water-dependent industries, tourism, irreplaceable aesthetics, water for domestic, agricultural, and industrial uses, and other activities, all of which depend upon clean and healthy marine and freshwater resources.

(2) The legislature finds that Puget Sound is in serious decline. Symptoms include the decline of some of our most revered species, such as salmon and orcas; increase in aquatic nuisance species; and the conversion of forest lands to cityscapes, which has negatively impacted many birds and mammals, along with altering the flow of rivers and streams. These flow changes begin from land and run to sea, carrying polluted runoff from human development. Closures of beaches to shellfish harvest due to the risk of disease have become more frequent and widespread. In places such as Hood Canal, the Sound's circulatory system is failing, and its inability to maintain sufficient oxygen levels has led to devastating fish kills and the death of other marine life. If left unchecked, these conditions will increase in frequency and will spread to other areas of Puget Sound.

(3) The legislature finds that the current system of governance for protection and restoration of Puget Sound is highly fragmented. Twelve counties, more than one hundred cities, seventeen tribes, numerous state and federal agencies, as well as hundreds of special purpose governmental units have responsibilities for managing land use and other actions that benefit or diminish the quality of the environment. Private organizations, business, and citizens are also taking actions that both benefit and harm the rich natural resources of the region. The legislature recognizes that all levels of government need to work together in partnership with the public, tribes, nongovernmental organizations, and the private sector to ensure that Puget Sound will be a thriving natural system, with clean marine and freshwaters; clean sediments; healthy and abundant native species; natural shorelines and places for public enjoyment; and a vibrant economy that prospers in productive harmony with a healthy Puget Sound.

(4) The legislature intends for the Puget Sound partnership to define a strategic, basin-wide plan that prioritizes necessary actions, and create an approach that addresses all of the complex connections among the land, water, web of species, and human needs.

(5) The legislature finds that immediate and concerted action is needed to save the national treasure that is Puget Sound, and that we must fundamentally change our approach toward restoring the health of Puget Sound. To this end, the Puget Sound partnership is tasked with using, supporting, building upon, and unifying the existing efforts from organizations and from all levels of government.

(6) The legislature finds that leadership, accountability, government transparency, thoughtful and responsible spending of public funds, and public involvement are integral to success. To achieve this success, the legislature intends to task the Puget Sound partnership with coordinating and leading the Puget Sound restoration effort, determining accountability for performance, overseeing the efficiency and effectiveness of money spent, educating and engaging the public, and tracking and reporting results to the legislature, the governor, and the public.

(7) The legislature intends that the Puget Sound partnership not have regulatory authority, nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature. The legislature further recognizes that adequate funding is necessary to ensure Puget Sound restoration and protection. The Puget Sound partnership is tasked with supporting local governments and organizations by aiding, funding, and improving upon their existing efforts, by respecting local governments' authorities, and by identifying, funding, and closing the gaps in the collective efforts.

(8) The legislature intends the Puget Sound partnership to create an action agenda based on science that includes clear, measurable goals for the recovery of Puget Sound by 2020. The action agenda will prioritize necessary actions, both across the Sound and within specific geographical areas, such as Hood Canal.

(9) To this end, it is the goal of the state of Washington that the health of Puget Sound be restored by 2020.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "2020 plan" means the Puget Sound management plan as it exists on the effective date of this section and as it is modified in the future.

(2) "Action agenda" means the biennial work plan to implement the 2020 plan as required in section 112 of this act.

(3) "Action area" means the geographic areas delineated as provided in section 109 of this act.

(4) "Action area coordinator" means an entity recognized by the council under section 110 of this act.

(5) "Benchmarks" means scientific standards that can be measured.

(6) "Council" means the leadership council.

(7) "Ecosystem work group" means the interagency body created in section 111 of this act.

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

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

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

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

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

(13) "Watershed groups" means all groups sponsoring or administering watershed programs, including but not limited to local governments, private sector entities, watershed planning units, watershed councils, regional fishery enhancement groups, marine resource committees, and watershed lead entities.

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

NEW SECTION. **Sec. 103.** PUGET SOUND PARTNERSHIP--LEADERSHIP COUNCIL. (1) An independent agency of state government to be known as the Puget Sound partnership is created.

(2) The partnership shall be led by a leadership council consisting of seven citizen members appointed by the governor with the advice and consent of the senate and one ex officio member. The regional administrator of the United States environmental protection agency shall be invited to serve as an ex officio voting member. The ex officio member may designate a person to act in his or her stead when unable to attend a meeting. The governor shall appoint members who are publicly respected and influential, and who have a significant history of

success on major public policy and management issues, as well as a keen interest in the environmental and economic prosperity of Puget Sound. A member may not have a direct financial interest in any contract, grant, or other funding provided for the implementation of the 2020 plan or action agenda. The governor shall designate one member to serve as chair. Three of the appointed initial members shall be appointed for a term of two years, two for a term of three years, and two for a term of four years. Their successors shall be appointed for terms of four years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Councilmembers are eligible for reappointment. Any member of the council may be removed by the governor for cause.

(3) The leadership council shall be responsible to the governor, the legislature, and the public for leading the recovery of Puget Sound and achieving results.

(4) The leadership council shall have the power and duty to:

(a) Provide overall leadership and have overall responsibility for the functions of the partnership and make final decisions for the partnership;

(b) Develop, approve, revise, and oversee implementation and adaptive management of the Puget Sound 2020 plan and the biennial action agenda;

(c) Submit to the governor and the appropriate fiscal and policy committees of the senate and house of representatives a biennial action agenda with an accompanying biennial budget request;

(d) Allocate funds appropriated to the partnership;

(e) Review the existing responsibilities of state and local governmental agencies, review the compliance with existing regulatory requirements by state and local government, review and report progress in implementing the 2020 plan and action agenda, including actions inconsistent with plan obligations, as provided in sections 113 through 117 of this act, and make recommendations to improve the effectiveness of the programs as they relate to the 2020 plan and action agenda;

(f) Review current available funding, identify if adequate funding exists for fulfilling existing regulatory requirements, and develop a strategy to secure adequate funding;

(g) Adopt procedural rules, in accordance with chapter 34.05 RCW, necessary or appropriate to implement this chapter;

(h) Delineate action areas and recognize area coordinating entities, as provided in sections 109 and 110 of this act;

(i) Incorporate approved elements of action area plans into the 2020 plan and biennial action agenda, and assist and track implementation of these plans;

(j) Appoint members of the panel, as provided in section 105 of this act;

(k) Create work groups, subcommittees, advisory committees, and nonprofit corporations, as appropriate to assist the council;

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

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

(n) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the partnership to effectuate the purposes of this chapter. The partnership may expend the same or any income therefrom according to the terms of the gifts, grants, and endowments;

(o) Promote extensive public awareness, education, and participation in Puget Sound protection and recovery and participate in a private-public partnership focused on public education and engagement to effectuate the goals in this chapter;

(p) Receive and expend funding from other public agencies;

(q) Develop and implement a formal process to review and address citizen concerns regarding developing and implementing the 2020 plan and action agenda, and accountability for funding and actions that are consistent or inconsistent with the requirements of the action agenda;

(r) Schedule council meetings periodically in the various areas of Puget Sound at locations convenient for public participation. Each meeting shall include receipt of public comment on council activities. The council shall also work to include in each meeting a discussion of actions implementing the 2020 plan and actions or lack of action that impede plan implementation; and

(s) Serve as the regional recovery organization for purposes of chapter 77.85 RCW for Puget Sound salmon recovery as provided in RCW 77.85.090.

(5) The council may delegate functions to the chair and to the executive director. The council may not delegate its decisional authority regarding developing or amending the action agenda, and issuing progress reports required under subsection (4) of this section.

(6) The council shall work closely with existing organizations and all levels of government to ensure that the action agenda and its implementation are scientifically sound, efficient, and achieve necessary results, and that adequate funding is provided to state agencies and local governments to develop, coordinate, and implement the action agenda. The council shall work through recognized area coordinating entities as the principal liaison with existing organizations within an action area.

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

(8) The partnership is designated as the lead state agency for the allocation of federal funds provided to the state for the restoration of Puget Sound. Such funds shall be allocated in conformance with the 2020 plan and action agenda, subject to any condition or limitation provided upon the receipt or expenditure of federal funds.

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

NEW SECTION. **Sec. 104.** PARTNERSHIP--EXECUTIVE DIRECTOR--POWERS AND DUTIES. (1) The partnership shall be administered by an executive director who serves as a critical communication link between all levels of government, tribes, the private sector, nongovernmental organizations, the council, the area coordinating entities, the ecosystem work group, and the panel. The executive director shall be accountable to the council and the governor for effective communication, actions, and results.

(2) The council shall recommend a list of not less than three candidates for appointment as executive director by the governor. The governor shall appoint an executive director from the list of candidates. The council and governor shall jointly conduct an annual performance evaluation of the executive director. The executive director serves at the pleasure of the governor, and may be dismissed by the governor upon consultation with the council. The salary of the executive director shall be set by the governor.

(3) The executive director has the following powers and duties:

(a) To supervise the administration of the Puget Sound partnership and its staff;

(b) To administer the partnership programs and budget;

(c) To assist the council to prepare and update the Puget Sound 2020 plan, in consultation with the panel;

(d) To assist the action area coordinators, the panel, and the ecosystem work group to develop their components of the biennial action agenda;

(e) To produce and distribute a strategic science program as described in section 105 of this act, in consultation with the panel and with the approval of the council;

(f) To produce and distribute a biennial science work plan as described in section 105 of this act, in consultation with the panel and with the approval of the council;

(g) To produce and distribute a biennial state of the Sound report, with the assistance of the panel and the approval of the council, that incorporates a scientific assessment of the health of Puget Sound and the state of its marine life, habitats, water quality, and climate. Until the panel develops new indicators,

those indicators used in the 2007 state of the Sound report shall be used;

(h) To identify successful science-based projects that improve Puget Sound that have been undertaken by local governments, disseminate them to other local governments, and encourage their replication;

(i) To represent and promote the interests of the state on Puget Sound recovery issues and further the mission of the partnership;

(j) Upon approval of the council, to enter into contracts and agreements with private nonprofit corporations to further preserving, conserving, and enhancing the health of Puget Sound for its ecological value and public benefit and use;

(k) To appoint such technical and other committees as may be necessary to carry out the purposes of this chapter;

(l) To create and maintain a repository for data, studies, research, and other information relating to Puget Sound health in the state, and to encourage the interchange of such information; and

(m) To encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public and private entities involved in the recovery and preservation of Puget Sound.

(4) The executive director shall employ a staff, who shall be state employees under Title 41 RCW. The executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter.

NEW SECTION. **Sec. 105.** PUGET SOUND SCIENCE PANEL. (1) The Puget Sound science panel is created. The panel consists of the scientists selected as provided in subsection (2) of this section. The principal purpose of the panel is to provide independent, nonrepresentational scientific expertise in developing environmental indicators and benchmarks for incorporation into the 2020 plan.

(2) By November 1, 2007, the council shall solicit nominations of candidate scientists with recognized expertise in the fields essential to Puget Sound recovery, including water quality, wetlands, species recovery, environmental toxicology, geology, ecology, biology, limnology, wildlife management, environmental engineering, civil engineering, hydrology, oceanography, environmental economics, and social sciences. The solicitation should be to all sectors, and candidates may be from all public and private sectors. Candidates must disclose any financial relationship with any leadership council member, and disclose sources of current financial support and contracts relating to Puget Sound recovery.

(3) The council shall submit the nominations to the Washington state academy of sciences created in chapter 70.220 RCW for screening. The academy shall review the nominations and report its findings and recommendations to the council.

(4) Thereafter, the council shall select not more than fifteen candidates to serve on the panel. The council shall complete the selection of the panel members by January 1, 2008.

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

(6) The executive director of the partnership shall provide staff to the panel at least until July 1, 2009. It is the intent of the legislature to ensure ongoing funding for staffing of the panel as an independent entity. The panel shall provide to the council a proposal for the structure and funding of the staffing and administration of the panel independent from that of the partnership, by October 1, 2008. The council shall forward to the governor for inclusion in the 2009-2011 biennial budget a proposal for staffing and administration of the panel that is independent of the partnership.

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

(8) The panel to the maximum extent possible should seek to integrate the state-sponsored Puget Sound science program with the Puget Sound science activities of federal agencies, including working toward an integrated research agenda and Puget Sound science work plan.

(9) By July 31, 2008, the panel shall identify environmental indicators of the health of Puget Sound, and shall establish environmental benchmarks that need to be achieved to meet the goals of a healthy Puget Sound by 2020. The council shall confer with the panel on incorporating the benchmarks into the 2020 plan.

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

(11) The panel shall develop an ecosystem level strategic science program for incorporation by the council into the 2020 plan and biennial action agenda. The program should include:

(a) Continuation of the Puget Sound assessment and monitoring program established in the Puget Sound management plan, as provided in RCW 90.71.060, and cooperation with other entities in other regional monitoring programs;

(b) Additional provisions of the research and modeling program to be included as an element of the action agenda;

(c) A monitoring program, including baselines, protocols, guidelines, and quantifiable performance measures.

(12) The panel shall assist the executive director in preparing a biennial science work plan for inclusion in the action agenda. The plan shall include but not be limited to:

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

(b) A description of the Puget Sound-related activities being conducted in the region;

(c) Identification of specific biennial science work to be done over the course of the work plan; and

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

(13) The panel shall prepare a Puget Sound science update. The update shall describe the current scientific understanding of the physical attributes of Puget Sound. The update shall serve as the scientific basis for the refinement of environmental indicators of the health of Puget Sound and the status and trends of those indicators within an ecosystem framework.

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

Sec. 106. RCW 90.71.060 and 1996 c 138 s 7 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the ((~~action team~~)) executive director, under guidance from the panel, shall ensure implementation and coordination of the Puget Sound ambient monitoring program established in the Puget Sound management plan. The program shall include, at a minimum:

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

(2) A monitoring program, including baselines, protocols, guidelines, and ((~~quantifiable performance measures. In consultation with state agencies, local and tribal governments, and other public and private interests, the action team shall develop and track quantifiable performance measures~~)) environmental indicators. The environmental indicators and benchmarks established by the council and the panel shall be monitored and evaluated in a manner that can be used by the governor and the legislature to assess the effectiveness over time of programs and actions initiated under the plan to improve and protect Puget Sound water quality and biological resources.

((~~The performance measures shall be developed by June 30, 1997. The performance measures shall include, but not be limited to a methodology to track the progress of: Fish and wildlife habitat; sites with sediment contamination; wetlands; shellfish beds; and other key indicators of Puget Sound health. State agencies shall assist the action team in the development and tracking of these performance measures. The performance measures may be limited to a selected geographic area.~~))

NEW SECTION. **Sec. 107.** 2020 PLAN AND ACTION AGENDA--GOALS AND OBJECTIVES. (1) The Puget Sound 2020 plan and action agenda that are to be implemented under this chapter shall be organized to achieve the following goals:

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

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

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

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

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

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

(2) The following are the essential objectives to be addressed in the 2020 plan and action agenda for achieving the goals in subsection (1) of this section:

(a) Protect existing habitat and prevent further losses;

(b) Restore habitat functions and values;

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

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

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

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

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

(h) Build and sustain the capacity for action.

(3) The plan and action agenda shall recognize that both population growth in many communities on and near Puget Sound, as well as climate change, will present significant challenges to the recovery of Puget Sound, and the probability of impacts from both should be considered and addressed in the development and implementation of the 2020 plan and action agenda.

NEW SECTION. **Sec. 108.** 2020 PLAN AND ACTION AGENDA--DEVELOPMENT. In developing the 2020 plan and action agenda, the council shall consider and use appropriate portions of the Puget Sound water quality management plan existing on the effective date of this section. Until the 2020 plan and action agenda are adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the 2020 plan and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

NEW SECTION. **Sec. 109.** INCORPORATING PLANS AND PROJECTS. (1) The council shall develop the action agenda in part upon the foundation of existing watershed programs and regional plans that contribute to the health of Puget Sound. To ensure a full consideration of these watershed activities in a timely manner to meet the required date for adoption of the agenda provided in section 112 of this act, the council shall rely largely upon local watershed entities, tribes, cities, counties, special purpose districts, and the private sector, engaged in developing and implementing these programs.

(2) The council shall organize the work of incorporating watershed programs into the action agenda by delineating geographic subregions of Puget Sound. One of the subregions shall be the Hood Canal aquatic rehabilitation zone as established in RCW 90.88.010. The subregions collectively shall cover all of Puget Sound and each subregion shall be denominated a Puget Sound action area. The council shall make geographic delineations based upon the characteristics of Puget Sound considering the water flows and the physical structure of the bottom of Puget Sound, as well as the commonality of interests and restoration challenges presented in the various regions of the Sound.

(3) The executive director shall designate a member of the staff to serve as the liaison to each action area. The area liaisons shall work with the sponsors of relevant programs at the watershed and regional level to identify and compile all of the relevant actions from these programs into area action plans for consideration by the council. If recognized by the council under section 110 of this act, the liaison shall work with the area coordinating entity to carry out this compilation. If no entity is recognized, the liaison shall form an inclusive work group to carry out this compilation, and shall request the participation at a minimum of each county, tribe, and each city with a population exceeding fifty thousand people, and any cities discharging storm water or treated municipal waste water to Puget Sound or discharging to a tributary within ten river miles of the Sound.

(4) The compilation shall be assembled to identify the applicable plan elements, projects, and programs, together with estimated budgets, timelines, and proposed funding sources. The compilation may include a prioritization among the plan elements, projects, and programs. In order to provide the council an adequate opportunity to consider the compilation for incorporation into the 2009-11 action agenda, the first compilation should be transmitted to the council by July 1, 2008. These plans shall subsequently be updated and submitted to the council by July 1st of every even-numbered year through 2018.

NEW SECTION. **Sec. 110.** AREA COORDINATING ENTITIES. (1) The council may recognize an existing entity or an entity formed for the express purpose of collaborating with the Puget Sound partnership and the council in developing and implementing the action agenda. A recognized entity serves as the area coordinating entity within an action area delineated by the council. The Hood Canal coordinating council under chapter 90.88 RCW is recognized as the area coordinating entity for the Hood Canal action area. The council shall work toward recognizing an entity in each action area by December 31, 2009.

(2) The council shall determine whether to recognize an entity based upon:

(a) The evidence of area-wide support for an entity proposed for recognition, such as resolutions or letters of support from the governing bodies of counties, cities, special purpose districts, tribes, nongovernmental organizations, and the private sector, implementing or participating in watershed programs in the area; and

(b) The demonstration of the entity's capacity to assist the council in coordinating and integrating watershed programs in the development and implementation of the action agenda.

(3) The council may provide financial and technical assistance to a recognized entity or to watershed interests working to form an entity proposed to be recognized as an area coordinating entity. The assistance shall be provided through a memorandum of agreement setting forth the activities of the entity in assisting the council in the development and implementation of the action agenda. The council shall include in its biennial budget request the needed funding to support the work of area coordinating entities.

(4) Following compilation of existing watershed plans under section 109 of this act, an area coordinating entity serves to promote coordination and integration of watershed plans that address the same geographic areas and the same watershed health, water quality, species recovery, and environmental

restoration needs. The coordinator also serves to advise the council on agenda implementation and revisions, and to coordinate the recommendations of area jurisdictions and interests regarding agenda implementation.

NEW SECTION. **Sec. 111.** COORDINATING EXISTING PROGRAMS REGARDING PUGET SOUND ECOSYSTEM-LEVEL ACTIONS. (1) The council shall convene a Puget Sound ecosystem work group not later than October 1, 2007. The work group chair shall rotate annually in the following order:

(a) The commissioner of public lands, or the commissioner's designee;

(b) The director of the department of ecology, or the director's designee;

(c) The director of the department of fish and wildlife, or the director's designee; and

(d) The chair of the salmon recovery funding board, or the chair's designee.

(2) The chair shall invite the following to participate on the work group:

(a) The departments of ecology, natural resources, fish and wildlife, health, and community, trade, and economic development, the conservation commission, and the salmon recovery funding board;

(b) Three representatives of tribal governments located in the Puget Sound basin;

(c) The United States environmental protection agency, the United States army corps of engineers, the national oceanic and atmospheric administration, the United States forest service, and the United States fish and wildlife service; and

(d) Up to three nongovernmental organizations implementing or participating in ecosystem-level actions.

(3) The chair of the work group may also invite the participation of counties, cities, port districts, or other jurisdictions with significant shoreline and near-shore restoration and protection programs.

(4) The primary purpose of the work group is to advise the council by compiling and assembling a 2009-11 action agenda for ecosystem scale restoration and protection plans relating to the Puget Sound basin for the purpose of consideration by the council for incorporation into the Puget Sound action agenda. The work group should work from plans such as the Puget Sound near-shore estuary project, cleanup plans for contaminated aquatic lands and shorelands, aquatic land management plans by the department of natural resources, and other restoration and protection plans. The work group should integrate ecosystem-scale actions from the recovery plans and habitat conservation plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act. The work group shall integrate as a model the federal assurances and agreements that implement the forests and fish report adopted by chapter 4, Laws of 1999 sp. sess. The work group should coordinate its compilation of ecosystem actions with that of the compilation under section 109 of this act of watershed programs.

(5) The work group shall hold one or more public meetings in which public comment and additional information may be submitted for inclusion within the compilation.

(6) The work group shall submit the compilation to the council not later than June 1, 2008.

(7) The work group shall serve as an ongoing advisory body to the council regarding state and federal programs relating to Puget Sound ecosystem-scale actions. The work group, upon request of the council, shall provide advice on integrating existing plans into the Puget Sound action agenda and implementing the agenda.

(8) This section, the work group, and its powers and duties expire June 30, 2011.

NEW SECTION. **Sec. 112.** 2020 PLAN AND ACTION AGENDA--REQUIREMENTS. (1) The 2020 plan and action agenda shall be science-based and lead to the recovery of Puget Sound by 2020. The plan shall:

(a) Describe the problems affecting Puget Sound's health using supporting scientific data;

(b) Set overall goals, measurable outcomes for each goal specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured, and time-bound benchmarks that will specify the milestones of that progress needed to reach a healthy Puget Sound by 2020. The council shall consult with the panel in developing these elements of the plan;

(c) Identify and prioritize the strategies necessary to restore and protect the Puget Sound and to achieve the goals described in section 107 of this act; and

(d) Identify barriers to implementation and actions needed to overcome the barriers to implementation.

(2) On a biennial basis, the action agenda shall:

(a) Identify and prioritize the actions necessary to implement the 2020 plan and achieve the goals, outcomes, and benchmarks of progress identified in the 2020 plan;

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

(c) Establish near-term and long-term benchmarks that demonstrate continuous progress toward achieving 2020 goals and describe how progress is to be tracked through clear and quantifiable measures.

(3) The 2020 plan and action agenda shall also:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound, and specific action agenda sections may address specific geographic areas of Puget Sound;

(b) Evaluate the effectiveness and efficiency of the overall management system for the improvement and maintenance of the health of the Puget Sound ecosystem;

(c) Review, revise as needed, and incorporate as they are developed, the panel's ecosystem goals and quantifiable measures;

(d) Integrate, where appropriate, provisions of water quality, sediment quality, water quantity, watershed, marine resource, and other watershed plans, relying primarily upon the integration achieved in area action plans;

(e) Incorporate existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies, that clearly contribute to the protection and restoration of Puget Sound, including agreements to implement the forests and fish report adopted by chapter 4, Laws of 1999 sp. sess.;

(f) Incorporate the Puget Sound nearshore ecosystem restoration project authorized by congress under Public Law 8-874, section 209 and Public Law 106-60, with associated plans developed through the Puget Sound nearshore partnership; and

(g) Incorporate the science work plan and actions necessary to carry it out.

(4) By March 1, 2008, the council shall produce a draft 2020 plan and adopt a final plan by September 1, 2008. The council shall provide opportunity for public review and comment on the proposed 2020 plan and subsequent revisions.

(5) By September 1, 2008, based on the work of the action area coordinators and watershed and local interests, the ecosystem work group, and the panel, the council shall adopt the 2009-11 action agenda. After the adoption of the initial action agenda, the council shall revise the action agenda on a biennial basis using an adaptive management process informed by tracking actions and monitoring results in the Puget Sound.

(6) The 2020 plan and action agenda shall be organized and maintained in an accessible electronic format and facilitate public accessibility to the plan.

NEW SECTION. **Sec. 113.** ACTION AGENDA--IMPLEMENTATION--BUDGET REQUESTS. (1) State agencies implementing elements of the action agenda shall:

(a) Provide to the partnership by June 1st of each even-numbered year their estimates of the actions and the level of effort needed for the forthcoming biennium to meet the overall goals, outcomes, targets, and benchmarks in the action agenda; and

(b) Work with the partnership in the development of its biennial action agenda budget and seek consistency between the partnership's budget and the agency budget to be submitted to the governor for consideration in the governor's biennial budget

request. The agencies shall seek the concurrence of the partnership in the proposed funding levels and sources included in this proposed budget.

(2) If a state agency submits an amount inconsistent with the partnership as part of the agency's biennial budget request, the partnership and state agency shall jointly identify the differences, the reasons for these differences, and present this information to the office of financial management by October 1st of each even-numbered year.

(3) A state agency seeking federal funding for activities implementing or affecting a provision of the plan shall seek and obtain the comments of the partnership's executive director before submitting the request or application to the federal government. The executive director shall consult with the council chair and provide the comments without delay. This subsection does not apply to continued federal funding of programs in existence before the effective date of this section.

NEW SECTION. **Sec. 114.** IMPLEMENTATION--ACCOUNTABILITY. (1) The legislature intends for all local, state, and federal governmental entities to act in conformance with applicable parts of the 2020 plan and action agenda as adopted by the council, beginning with the adoption of the 2020 plan and the 2009-11 action agenda, and anticipates that state and local entities will accept their appropriate responsibility to recover the Sound to health by 2020.

(2) The council shall be accountable for achieving the action agenda. The council shall be accountable for all funds allocated to the partnership, and shall report the expenditure of the funds and results achieved in the progress reports required under section 117 of this act.

(3) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. The council may establish performance measures for the expenditures of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. State agencies may incorporate applicable provisions of the performance measures as conditions in their grant and loan awards to nonstate agencies or organizations. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provisoed Puget Sound funds, and scheduling periodic management conferences with state agencies implementing Puget Sound programs.

(4) Any entity that receives state funds to implement specific elements of the 2020 plan and action agenda shall report annually to the council on progress in completing its responsibilities and whether expected results have been achieved within the timeframes specified in the 2020 plan and action agenda. Where the council determines that an entity has taken actions inconsistent with the 2020 plan and action agenda or has failed to take actions required, the council may request the office of financial management to withhold or rescind the subject funds or other funds.

(5) The council shall review the actions of nonstate entities undertaking implementation of specific elements of the action agenda. If the council determines that an entity's actions are inconsistent with the plan, the council shall offer technical assistance to the entity for the purpose of bringing the entity into conformance with the plan. The council shall include in the progress report required under section 117 of this act the nonperformance of any entity and those entities that refuse technical assistance under this section. The report shall include a description of how the entity is not in conformance and the basis for the nonconformance, including but not limited to a lack of funding, a lack of legal authority, or conflicting legal authority. The report shall also describe actions the council took to try to bring the entity into conformance.

(6) The council shall conduct periodic management conferences with state agencies regarding compliance with and enforcement of existing laws. The results of the conferences shall be included in the progress report required under section 117 of this act. The management conference should include assessment of performance by the administering agencies in seeking compliance with and enforcement of the following existing laws:

(a) Water pollution control act, chapter 90.48 RCW;

(b) Shoreline management act, chapter 90.58 RCW;

(c) Growth management act, chapter 36.70A RCW;

(d) Oil and hazardous substance spill prevention and response act, chapter 90.56 RCW;

(e) Model toxics control act, chapter 70.105D RCW;

(f) Hazardous waste management act, chapter 70.105 RCW;

(g) Hydraulic project approval act, chapter 77.55 RCW;

(h) Aquatic lands management, chapters 79.100, 79.105, 79.110, 79.115, 79.120, 79.125, 79.130, 79.135, and 79.140 RCW;

(i) Forest practices act, chapter 76.09 RCW; and

(j) The federal endangered species act, 16 U.S.C. Sec. 1531 et seq.

NEW SECTION. **Sec. 115.** ACCOUNTABILITY--ROLE OF COUNCIL. (1) The council shall use accountability measures with respect to all governmental levels or other entities with responsibilities under the action agenda, to determine progress under the action agenda.

(2) The council shall develop accountability measures for any entity with responsibilities under the action agenda, to determine compliance with the action agenda and achievements of the results expected. The council shall also work with the entities themselves to identify additional accountability measures, including positive incentives and consequences for inaction.

(3) The council shall develop and submit to the legislature recommendations to enhance and phase-in local government accountability measures by September 20, 2008.

NEW SECTION. **Sec. 116.** CONFLICT RESOLUTION. (1) The council shall provide a forum for addressing and resolving conflicts that it has identified in the implementation of the plan and action agenda, or that citizens or implementing entities bring to the council. The council may use conflict resolution mechanisms such as but not limited to technical and financial assistance, facilitated discussions, and mediation to resolve the conflict. Where the parties and the council are unable to resolve the conflict, and the conflict significantly impairs the implementation of an element of the 2020 plan or action agenda, the council shall provide its analysis of the conflict and recommendations for resolution to the governor, the legislature, and to those entities with jurisdictional authority to resolve the conflict.

(2) When the council identifies or has been informed of a conflict among statutes or policies arising under this chapter and other statutes, rules, ordinances, regulations, or policies that are relied upon in implementing the 2020 plan, and the council determines that the conflict prevents or hinders local government or state agency actions needed to conform with the 2020 plan, the council shall make recommendations to the agency, the governor, the legislature, the local government, or other appropriate entity for addressing and resolving the conflict.

NEW SECTION. **Sec. 117.** REPORTS. (1) By September 1, 2008, the council shall provide to the governor and the appropriate fiscal and policy committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda through 2020, in order to achieve the 2020 goals of this chapter. The recommendations shall:

(a) Identify funding needs by plan element and identify the time periods in which specific funding is needed;

(b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding;

(c) Identify methods to secure stable and sufficient funding throughout the time periods for plan implementation, including proposals for new sources of funding to be dedicated to Puget Sound protection and recovery; and

(d) Address funding needs to support the work of the 2020 plan and action agenda development and coordination, including the action area coordinators, the ecosystem work group, and the panel.

(2) Beginning November 1, 2009, the council shall report every two years by November 1st to the governor, the legislature, and the public on progress under the action agenda. The report shall include but is not limited to:

(a) The comments by the panel, area coordinating entities, the ecosystem work group, and citizens' concerns reviewed by the council as provided in section 103 of this act;

(b) An assessment of whether entities that have received state funds for specific actions under the action agenda have accomplished expected results. If expected results are not achieved by an entity receiving state funds, the council shall include recommendations to the governor and the legislature other options to achieve plan-related results with the same funds;

(c) A case study of at least one of the existing programs that assesses that program's efficacy and expenditures devoted to Puget Sound protection and recovery for consistency with the action agenda;

(d) Recommendations for funding necessary to maintain the timelines in the 2020 plan, that supplement or update the recommendations made in the 2008 report under subsection (1) of this section; and

(e) The council's recognition of individuals, businesses, and governmental entities that have achieved exemplary success in implementing elements of the 2020 plan. The council shall incorporate descriptions of these successful actions into the partnership's public outreach and involvement program materials.

(3) Where the council identifies deficiencies in existing statutory authority to accomplish an element of the 2020 plan or action agenda, the council shall provide its recommendations in the form of proposed legislation to the governor and appropriate committees of the legislature. Where the deficient authority is in federal law, the council shall forward its recommendation to the governor and to the appropriate committees of the legislature for consideration in memorializing the congress to remedy the deficiency.

NEW SECTION. **Sec. 118.** TRIENNIAL PERFORMANCE AUDITS. (1) The joint legislative audit and review committee shall conduct triennial performance audits of the partnership, with the first audit to be completed October 1, 2011.

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

(a) A determination of the extent to which funds expended by the partnership or provided in biennial budget acts expressly for implementing the 2020 plan have contributed toward meeting the scientific benchmarks and the recovery goals of the 2020 plan;

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

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

(3) The partnership may use the audits as the basis for developing changes to the 2020 plan and action agenda, and may submit any recommendations requiring legislative policy or budgetary action to the governor and to the appropriate committees of the senate and house of representatives.

NEW SECTION. **Sec. 119.** TRANSFER OF POWERS, DUTIES, AND FUNCTIONS--REFERENCES TO CHAIR OF THE PUGET SOUND ACTION TEAM. (1) The Puget Sound action team is hereby abolished and its powers, duties, and functions are hereby transferred to the Puget Sound partnership as consistent with this chapter. All references to the chair or the Puget Sound action team in the Revised Code of Washington shall be construed to mean the executive director or the Puget Sound partnership.

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 120.** PUGET SOUND RECOVERY ACCOUNT. The Puget Sound recovery account is created in the state treasury. To the account shall be deposited such funds as the legislature directs or appropriates to the account. There shall also be deposited to the account federal funds provided to the state for the protection and recovery of Puget Sound except where such deposit would conflict with federal law or a condition upon the state's receipt of such funds. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the protection and recovery of Puget Sound.

NEW SECTION. **Sec. 121.** Each state agency responsible for implementing provisions of the Puget Sound action agenda developed under section 108 of this act shall use its existing legal authorities to the fullest extent possible to conform to the applicable requirements and timelines of the agenda.

NEW SECTION. **Sec. 122.** PART HEADINGS AND CAPTIONS NOT LAW. Part headings and captions used in this act are not any part of the law.

Sec. 123. RCW 90.71.100 and 2001 c 273 s 3 are each amended to read as follows:

(1) The ((~~action team~~)) department of health shall establish a shellfish - on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The ((~~action team~~)) department of health shall provide funds to local health jurisdictions to be used as grants to individuals for improving their on-site sewage systems. The grants may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas. A recipient of a grant shall enter into an agreement with the appropriate local health jurisdiction to maintain the improved on-site sewage system according to specifications required by the local health jurisdiction. The ((~~action team~~)) department of health shall work closely with local health jurisdictions and shall endeavor to attain geographic equity between Willapa Bay and the Puget Sound when making funds available under this program. For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants at a level that

matches the funds generated from the oyster reserve lands in that area.

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

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

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

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

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

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

((~~(6) For the 2001-2003 biennium, the action team may use up to fifty percent of the shellfish - on-site sewage grant program funds for grants to local health jurisdictions to establish areas of special concern under WAC 246-272-01001, or for operation and maintenance programs therein, where commercial and recreational uses are present.~~))

NEW SECTION. **Sec. 124.** A new section is added to chapter 41.06 RCW to read as follows:

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

Sec. 125. RCW 43.17.010 and 2006 c 265 s 111 are each amended to read as follows:

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

Sec. 126. RCW 43.17.020 and 2006 c 265 s 112 are each amended to read as follows:

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

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 127. RCW 42.17.2401 and 2006 c 265 s 113 are each amended to read as follows:

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

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

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

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

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, ((~~personnel appeals board,~~)) board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

NEW SECTION. **Sec. 128.** A new section is added to chapter 36.01 RCW to read as follows:

Each county responsible for implementing provisions of the Puget Sound action agenda developed under section 108 of this act shall use its existing legal authorities to the best of its ability when implementing the applicable requirements and timelines of the Puget Sound action agenda adopted under section 112 of this act.

NEW SECTION. **Sec. 129.** A new section is added to chapter 35.21 RCW to read as follows:

Each city responsible for implementing provisions of the Puget Sound action agenda developed under section 108 of this act shall use its existing legal authorities to the best of its ability when implementing the applicable requirements and timelines of the Puget Sound action agenda adopted under section 112 of this act.

NEW SECTION. **Sec. 130.** A new section is added to chapter 53.08 RCW to read as follows:

Each port district responsible for implementing provisions of the Puget Sound action agenda developed under section 108 of this act shall use its existing legal authorities to the best of its ability when implementing the applicable requirements and timelines of the Puget Sound action agenda adopted under section 112 of this act.

Sec. 131. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

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

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

(3) Beginning January 1, 2008, the leadership council, created under chapter 90.71 RCW, shall serve as the regional salmon recovery organization for Puget Sound salmon species. The Hood Canal coordinating council under chapter 90.88 RCW serves as the regional salmon recovery organization for the Hood Canal summer chum.

PART 2
INFRASTRUCTURE FUNDING FOR THE PUGET SOUND PARTNERSHIP

NEW SECTION. **Sec. 201.** The legislature finds that it is in the public interest that state-assisted infrastructure projects in the Puget Sound basin that relate to or affect Puget Sound's protection and restoration be financed with a comprehensive understanding of Sound-wide priorities and needs consistent with the goals and objectives of the Puget Sound action agenda. The legislature further finds that this may best be accomplished by integrating the Puget Sound 2020 plan's goals and objectives into existing financial assistance programs, processes, and project ranking criteria. Therefore the legislature intends to provide initial steps for such integration in three major public works grant and loan programs, and to direct a comprehensive assessment of methods to achieve such integration in these programs and other state infrastructure programs that affect Puget Sound's protection and restoration.

Sec. 202. RCW 43.155.020 and 2001 c 131 s 1 are each amended to read as follows:

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

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Council" means the Puget Sound partnership's leadership council created in section 103 of this act.

(4) "Department" means the department of community, trade, and economic development.

(((~~(4)~~))) (5) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(((~~(5)~~))) (6) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(((~~(6)~~))) (7) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems and solid waste facilities, including recycling facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(((~~(7)~~))) (8) "Puget Sound applications" means those applications for funding of public works projects located within water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

(9) "Puget Sound 2020 plan" means the plan for the protection and restoration of Puget Sound required by section 112 of this act.

(10) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(((~~(8)~~))) (11) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

Sec. 203. RCW 43.155.070 and 2001 c 131 s 5 are each amended to read as follows:

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

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

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

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

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

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

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

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

(b) The evaluation of Puget Sound applications under section 204 of this act, and the recommendations of the council regarding Puget Sound applications;

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

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

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

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

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

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

((~~(h)~~)) (i) Other criteria that the board considers advisable.

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

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

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

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

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

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

NEW SECTION. **Sec. 204.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The board shall include at least one evaluator from the council staff to participate in the board's evaluation team for the evaluation of Puget Sound sanitary and storm sewer project applications and the development of a prioritized list of projects to recommend for funding from the account.

(2) The board shall provide the evaluation team's evaluations and award proposals to the council for review. If the council determines that the award proposals are inconsistent with the priorities and provisions of the Puget Sound 2020 plan, the council shall provide its recommendations to the board for its consideration before adopting a funding list for recommendation to the legislature. If the board determines to fund a proposal that the council has found inconsistent with the priorities of the action agenda, the board shall provide the council its reasons.

(3) The board and council shall collaborate in reviewing the board's eligibility and evaluation criteria to ensure consistency with the goals and objectives of the Puget Sound 2020 plan.

Sec. 205. RCW 70.146.020 and 1995 2nd sp.s. c 18 s 920 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Account" means the water quality account in the state treasury.

(2) "Council" means the Puget Sound partnership's leadership council created in section 103 of this act.

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

((~~(3)~~)) (4) "Eligible cost" means the cost of that portion of a water pollution control facility that can be financed under this chapter excluding any portion of a facility's cost attributable to capacity that is in excess of that reasonably required to address one hundred ten percent of the applicant's needs for water pollution control existing at the time application is submitted for assistance under this chapter.

((~~(4)~~)) (5) "Puget Sound 2020 plan" means the plan for the protection and restoration of Puget Sound required by section 112 of this act.

(6) "Puget Sound applications" means those applications for funding of water pollution control facilities and activities located within water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

(7) "Water pollution control facility" or "facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers. "Water pollution control facilities" also includes facilities or systems that treat storm water discharges or delay peak storm water runoff, such as low-impact development projects.

((~~(5)~~)) (8) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water; (b) to control nonpoint sources of water pollution; (c) to restore the water quality of fresh water lakes; and (d) to maintain or improve water quality through the use of water pollution control

facilities or other means. ((~~During the 1995-1997 fiscal biennium, "water pollution control activities" includes activities by state agencies to protect public drinking water supplies and sources.~~

~~(6)~~)) (9) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(((~~(7)~~))) (10) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(((~~(8)~~))) (11) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(((~~(9)~~))) (12) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the administrator of the environmental protection agency pursuant to Public Law 93-523, Sec. 1424(b).

Sec. 206. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

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

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

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

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

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

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

(f) The recommendations of the Puget Sound ((~~action team~~)) partnership provided under section 207 of this act and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

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

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

NEW SECTION. **Sec. 207.** A new section is added to chapter 70.146 RCW to read as follows:

(1) The department shall include at least one evaluator from the council staff to participate in the department's evaluator work group for the evaluation of Puget Sound applications and the award of grants and loans to such applicants.

(2) The department shall provide the evaluator work group evaluations and award proposals to the council for review. If the council determines that the award proposals are inconsistent with the priorities and provisions of the action agenda, the council shall provide its recommendations to the department for its consideration before making final award decisions. If the board determines to fund a proposal that the council has found inconsistent with the priorities of the action agenda, the board shall provide the council its reasons.

(3) The department and council shall collaborate in reviewing the department's eligibility and rating criteria to ensure consistency with the goals and objectives of the Puget Sound action agenda.

Sec. 208. RCW 90.50A.010 and 1988 c 284 s 2 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the Puget Sound partnership's leadership council created in section 103 of this act.

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

(((~~(2)~~))) (3) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(((~~(3)~~))) (4) "Fund" means the water pollution control revolving fund in the custody of the state treasurer.

(((~~(4)~~))) (5) "Puget Sound 2020 plan" means the plan for the protection and restoration of Puget Sound required by section 112 of this act.

(6) "Puget Sound applications" means those applications for funding of water pollution control facilities and activities located within water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

(7) "Water pollution control facility" or "water pollution control facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, combined sewer overflows, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers. "Water pollution control facilities" also includes facilities or systems that treat storm water discharges or delay peak storm water runoff, such as low-impact development projects.

(((~~(5)~~))) (8) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) to maintain or improve water quality through the use of water pollution control facilities or other means.

(((~~(6)~~))) (9) "Public body" means the state of Washington or any agency, county, city or town, other political subdivision, municipal corporation or quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(((~~(7)~~))) (10) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in

temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(((~~(8)~~))) (11) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(((~~(9)~~))) (12) "Federal capitalization grants" means grants from the federal government provided by the water quality act of 1987 (P.L. 100-4).

NEW SECTION. **Sec. 209.** A new section is added to chapter 90.50A RCW to read as follows:

(1) The department shall include at least one evaluator from the council staff to participate in the department's evaluator work group for the evaluation of Puget Sound applications and the award of loans to such applicants.

(2) The department and council shall collaborate in reviewing the department's eligibility and rating criteria to ensure consistency with the goals and objectives of the Puget Sound action agenda.

(3) The department shall provide the evaluator work group evaluations and award proposals to the council for review. If the council determines that the award proposals are inconsistent with the priorities and provisions of the action agenda, the council shall provide its recommendations to the department for its consideration before making final award decisions. If the board determines to fund a proposal that the council has found inconsistent with the priorities of the action agenda, the board shall provide the council its reasons.

PART 3
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 301.** (1) The Puget Sound partnership's leadership council, created in section 103 of this act, shall review the following state funding programs that provide state funding for facilities and activities that may contribute to the implementation of the Puget Sound agenda:

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

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

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

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

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

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

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

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

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

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

(2) The review shall be conducted in collaboration with the state agencies that administer these programs.

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

(a) Conducting an overview of the program governing laws and policies, the timelines of application processes and projects, existing performance measures used, and the programming limitations and restrictions;

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

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

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

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

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

(g) Assessing ways through the funding allocations for Puget Sound to reflect the geographic areas of Puget Sound for cleanup emphasis identified in the Puget Sound agenda;

(h) Evaluating the form of the assistance provided, such as low-interest and no-interest loans, grants, and technical assistance, and which forms of assistance are more appropriate in accomplishing different types of projects and activities needed for implementing the Puget Sound agenda;

(i) Whether entities that are private or quasi-public in nature and not now eligible to receive funding from the programs should be made eligible to seek funding, and what conditions upon funding would ensure that the public's interest in fiscal accountability and transparency in the use of public funds is protected;

(j) Whether additional types of projects or activities should be made eligible for funding where the projects or activities are consistent with the primary purposes of the program and will also contribute to implementation of the Puget Sound agenda;

(k) Whether state policies for the disposal, acquisition, or development of state lands are compatible or contrary to the goals and priorities of the Puget Sound agenda;

(l) The rigor of evaluation of project application in each program regarding assumptions and estimations of project benefits, including contributions toward implementation of the Puget Sound agenda; and

(m) Recommendations for improving the programs to further the Puget Sound action agenda and to integrate the Puget Sound partnership in project awards relating to or contributing to Puget Sound restoration and protection.

(4) In addition to the review required in subsection (2) of this section, the salmon recovery funding board and the council shall review the roles of the board and the council in funding salmon recovery projects and activities in Puget Sound. The board and council shall include recommendations for integrating these activities to reduce administrative costs of grant monitoring and to ensure that the priorities for salmon recovery projects funded by the board and the priorities of the 2020 plan and action agenda are aligned.

(5) The state agencies and boards administering the programs specified in subsection (1) of this section shall cooperate in providing to the council information as required for the council's review. The council shall provide its recommendations in draft form to each of the administering agencies and consider their comments prior to finalizing the council's review and recommendations.

(6) By November 1, 2008, the council shall provide a preliminary summary of its review and recommendations to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2009, the council shall provide final summary and recommendations, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

NEW SECTION. **Sec. 302.** RCW 90.71.005, 90.71.902, and 90.71.903 are each decodified.

NEW SECTION. **Sec. 303.** RCW 90.71.100 is recodified as a new section in chapter 70.118 RCW.

NEW SECTION. **Sec. 304.** The following acts or parts of acts are each repealed:
(1) RCW 90.71.010 (Definitions) and 1996 c 138 s 2;
(2) RCW 90.71.015 (Environmental excellence program agreements--Effect on chapter) and 1997 c 381 s 30;
(3) RCW 90.71.020 (Puget Sound action team) and 1998 c 246 s 14 & 1996 c 138 s 3;
(4) RCW 90.71.030 (Puget Sound council) and 1999 c 241 s 3 & 1996 c 138 s 4;
(5) RCW 90.71.040 (Chair of action team) and 1996 c 138 s 5;
(6) RCW 90.71.050 (Work plans) and 1998 c 246 s 15 & 1996 c 138 s 6;
(7) RCW 90.71.070 (Work plan implementation) and 1996 c 138 s 8;
(8) RCW 90.71.080 (Public participation) and 1996 c 138 s 9;
(9) RCW 90.71.900 (Short title--1996 c 138) and 1996 c 138 s 15; and
(10) RCW 90.71.901 (Captions not law) and 1996 c 138 s 14.

NEW SECTION. **Sec. 305.** Sections 101 through 105 and 107 through 122 of this act are each added to chapter 90.71 RCW.

NEW SECTION. **Sec. 306.** Sections 201 through 209 of this act take effect July 1, 2008.

NEW SECTION. **Sec. 307.** Sections 101 through 131 and 301 through 304 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007."

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

MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Morton to the striking amendment be adopted.

On page 6, line 31 of the amendment, after "implementation;" strike "and"

On page 6, line 34 of the amendment, after "77.85.090" insert "; and

(t) To the greatest extent possible, adopt the prioritized ranking recommendations of action agenda items by the science advisors in accordance with section 106(2)(a) of this act"

Beginning on page 9, line 9 of the amendment, strike all of section 105 and insert the following:

"NEW SECTION. **Sec. 105.** PUGET SOUND SCIENCE ADVISORS--STRUCTURE--PROCEDURES. (1) By January 31, 2008, the council shall appoint a maximum of three science advisors whose duties are described in section 106 of this act.

(2) The council shall solicit nominations from at a minimum:

(a) Federal and state agencies;

(b) The business community;

(c) The environmental community; and

(d) The academic community.

(3) The council shall submit the nominations to the Washington academy of sciences for recommendation as to scientific qualifications. The recommendations shall be based on expertise in the technical experience and scientific disciplines needed to protect and recover the Puget Sound ecosystem.

(4) All nominees must fully disclose all existing conflicts of interest before their appointment.

(5)(a) The science advisors serve at the pleasure of the council.

(b) A science advisor shall be appointed or removed on a vote of two-thirds of the full council.

(c) The science advisors report directly to the chair or vice-chair of the council. Science advisors shall receive administrative support from the executive director as requested by the council.

(d) The science advisors shall be contract employees to the council and shall receive fair and adequate compensation.

NEW SECTION. **Sec. 106.** PUGET SOUND SCIENCE ADVISORY COMMITTEE--FUNCTIONS AND DUTIES. (1) The science advisors shall advise the council and executive director on matters of science that affect the obligations of the partnership to recover and protect Puget Sound.

(2) The science advisors are responsible for:

(a) Coordinating with other state government agency scientific personnel;

(b) Collaborating with tribal and federal agency scientific organizations;

(c) Collaborating with local governments' scientific staff;

(d) Collaborating with nonprofit, nongovernmental organizations on scientific issues;

(e) Recommending research projects that will meet partnership goals;

(f) Reviewing and advising the council on performance of council-approved and funded projects;

(g) Working with the executive director to develop a strategic science program as provided in section 104 of this act;

(h) Consulting with and supporting the executive director in updating the strategic science program;

(i) Providing advice, review, and assistance to the executive director in the development of the action agenda, as described in section 112 of this act;

(j) Assisting the council and the executive director in developing and regularly updating or revising the action agenda. In particular, the science advisors shall provide a prioritized ranking of action agenda actions based on a scientific assessment of which actions will yield the greatest restoration and/or protection return on investment. The science advisors may also recommend updates to the action agenda as it deems appropriate based on new scientific information;

(k) Consolidating and interpreting information in support of council actions;

(l) Providing legislative briefing on request of the council or governor; and

(m) Promoting science in K-12 education in support of partnership goals.

(3) The council may, on the recommendations of the science advisors, contract for scientific support when necessary to fill information gaps or provide services necessary to partnership goals. All contracts shall be for fixed term and shall contain specific performance criteria. The council chair or vice-chair shall appoint a science advisor to monitor the progress on each contract and report periodically to the council.

(4) By July 31, 2008, the science advisors shall identify environmental indicators of the health of Puget Sound and establish environmental benchmarks that need to be achieved to meet the goals of a healthy Puget Sound by 2020.

(5) One science advisor shall participate, as provided by the Washington academy of sciences charter, to ensure coordination of scientific activities.

(6) The science advisors shall monitor and comment on the development of the action agenda. The science advisors shall submit an analysis of the action agenda to the legislature, which may include both majority and minority reports, on the effectiveness of the proposed actions from a scientific perspective.

(7) The council science advisors may provide technical assistance to entities identified by the council as supporting the 2020 plan goals."

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

Senator Stevens spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the

amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Morton on page 6, line 32 to the striking amendment to Substitute Senate Bill No. 5372.

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

MOTION

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

On page 10, after line 29 of the amendment, insert the following:

"(11) The Puget Sound science panel shall not provide any policy recommendations to the council or the executive director."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 10, after line 29 to the striking amendment to Substitute Senate Bill No. 5372.

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

MOTION

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

On page 22, after line 32 of the amendment, insert the following:

"NEW SECTION. **Sec. 117.** COMPENSATION TO PROPERTY OWNERS. If any action taken by the Puget Sound partnership reduces the fair market value of private property, the partnership shall provide just compensation to the property owner.

Just compensation shall be equal to the reduction in the fair market value of the affected property interest that results from the action taken by the owner. The owner must make a written demand for compensation under this chapter."

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

Senator Carrell spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 22, after line 32 to the striking amendment to Substitute Senate Bill No. 5372.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Carrell and the amendment to the striking amendment was not adopted by the following vote: Yeas, 17; Nays, 30; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Hewitt, Holmquist, Honeyford, Kilmer, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 17

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 30

Excused: Senators Delvin and Roach - 2

MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Morton to the striking amendment be adopted.

On page 26, line 11, strike all of section 121.

Renumber the sections consecutively and correct any internal references accordingly.

On page 30, at the beginning of line 29, strike all material through "act." on page 31, line 14.

Renumber the sections consecutively and correct any internal references accordingly.

On page 46, line 16 of the title amendment, after "41.06 RCW;", strike all material through "53.08 RCW;" on line 18.

Senators Stevens and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Morton on page 26, line 11 to the striking amendment to Substitute Senate Bill No. 5372.

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

MOTION

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

On page 30, line 29 delete "36.01" and insert "90.71"

On page 31, line 1 delete "35.21" and insert "90.71"

On page 31, line 8 delete "53.08" and insert "90.71"

Senators Rockefeller and Brandland spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 30, line 29 to the striking amendment to Substitute Senate Bill No. 5372.

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

MOTION

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

On page 46, after line 5 of the amendment, insert the following:

"NEW SECTION. **Sec. 306.** Except for sections 111 and 302 through 304 of this act, this act expires December 31, 2020."

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

On page 46, line 25 of the title amendment, after "providing" strike "an expiration date" and insert "expiration dates"

Senators Schoesler and Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 46, after line 5 to the striking amendment to Substitute Senate Bill No. 5372.

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

MOTION

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

On page 5, beginning on line 33 of the amendment, after "(g)" strike all material through "chapter;" on line 34, and insert "Consistent with the limitations in subsection (9) of this section, adopt procedural rules consistent with chapter 34.05 RCW necessary to implement this chapter;"

On page 7, line 20, after "(9)" insert "The agency shall not have rule-making authority under chapter 34.05 RCW except for procedural rules to address public document, meeting, personnel, and related matters.

(10)"

On page 19, after line 13, insert the following:

"(7) The 2020 plan and action agenda and associated recommendations may not:

(a) Create mandatory duties or considerations concerning the review or approval of permits or adoption of plans and regulations, or create governmental actions requiring rule making governing agency actions for the purposes of RCW 34.05.010(3) or chapter 43.21C RCW;

(b) Authorize any rule making as defined in RCW 34.05.010 (16) and (18) or 34.05.328, except as may pertain to statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(c) Be subject to review under the provisions of chapter 43.21C RCW."

Senator Holmquist spoke in favor of adoption of the amendment to the striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 5, line 33 to the striking amendment to Substitute Senate Bill No. 5372.

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

The President declared the question before the Senate to be the adoption of the striking amendment as amended by Senator Rockefeller to Substitute Senate Bill No. 5372.

The motion by Senator Rockefeller carried and the striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "partnership;" strike the remainder of the title and insert "amending RCW 90.71.060, 90.71.100, 43.17.010, 43.17.020, 42.17.2401, 77.85.090, 43.155.020, 43.155.070, 70.146.020, 70.146.070, and 90.50A.010; adding new sections to chapter 90.71 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 43.155 RCW; adding a new section to chapter 70.146 RCW; adding a new section to chapter 90.50A RCW; adding a new section to chapter 70.118 RCW; creating new sections; recodifying RCW 90.71.100; decodifying RCW 90.71.005, 90.71.902, and 90.71.903; repealing RCW 90.71.010, 90.71.015, 90.71.020, 90.71.030, 90.71.040, 90.71.050, 90.71.070, 90.71.080, 90.71.900, and 90.71.901; providing effective dates; providing an expiration date; and declaring an emergency."

On page 46, beginning on line 17 of the title, delete everything beginning with "adding" through "53.08 RCW;"

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 5372 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Hargrove, Swecker, Morton, Sheldon, Clements, Haugen spoke in favor of passage of the bill.

Senators Stevens and Honeyford spoke against passage of the bill.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5372.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5372 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 41

Voting nay: Senators Holmquist, Honeyford, McCaslin, Schoesler and Stevens - 5

Excused: Senators Delvin, Roach and Zarelli - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT

President Owen: “The President would like to make a very important announcement today. Today is I won’t say which but she just informed us that she’s been around for over fifty years. I don’t know where she just went but it happens to be the birthday of Senator Rasmussen. Senator Rasmussen, happy birthday.”

SECOND READING

SENATE BILL NO. 5926, by Senators Kohl-Welles, Clements, Kastama, Weinstein, Fairley, Keiser, Marr, Tom, Murray, Oemig, Sheldon and Kline

Creating a joint legislative task force to review the underground economy in the construction industry.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5926 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5926.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5926 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Excused: Senators Delvin, Kline, Roach and Zarelli - 4

SENATE BILL NO. 5926, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5721, by Senator Kohl-Welles

Concerning financial arrangements involving sports/entertainment facility license holders.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5721 was substituted for Senate Bill No. 5721 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5721 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5721.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5721 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Delvin, Roach and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5721, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5898, by Senators Kohl-Welles, Clements, Keiser, Murray, McAuliffe and Honeyford

Authorizing the use of a common carrier for the shipment of wine.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5898 was substituted for Senate Bill No. 5898 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5898 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5898.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5898 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 45

Voting nay: Senator Hargrove - 1

Excused: Senators Delvin, Roach and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5898, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5902, by Senators Prentice, Kohl-Welles, Delvin and Kline

Requiring additional state liquor stores to engage in Sunday sales.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 5902 was advanced to third reading, the second

reading considered the third and the bill was placed on final passage.

Senators Prentice and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5902.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5902 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Fraser, Hatfield, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Tom and Weinstein - 34

Voting nay: Senators Carrell, Clements, Franklin, Hargrove, Haugen, Holmquist, Honeyford, McCaslin, Morton, Parlette, Stevens and Swecker - 12

Excused: Senators Delvin, Roach and Zarelli - 3

SENATE BILL NO. 5902, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5915, by Senators Honeyford, Clements, Kohl-Welles and Roach

Providing unemployment and industrial insurance notices to employers.

MOTION

On motion of Senator Honeyford, Substitute Senate Bill No. 5915 was substituted for Senate Bill No. 5915 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Clements moved that the following striking amendment by Senators Clements, Honeyford and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 50.12 RCW to read as follows:

When an employer initially files a master application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay unemployment insurance taxes, the department shall send to the employer any printed material the department requires the employer to post under this title. Any time the printed material has substantive changes in the information, the department shall send a copy to each employer.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.04 RCW to read as follows:

When an employer initially files a master application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay industrial insurance taxes, the department shall send to the employer any printed material the department requires the employer to post under this title. Any time the printed material has substantive changes in the information, the department shall send a copy to each employer.

Sec. 3. RCW 51.28.020 and 2005 c 108 s 3 are each amended to read as follows:

(1)(a) Where a worker is entitled to compensation under this title he or she shall file with the department or his or her self-insured employer, as the case may be, his or her application for such, together with the certificate of the physician who attended him or her. An application form developed by the department shall include a notice specifying the worker's right to receive health services from a physician of the worker's choice under RCW 51.36.010, including chiropractic services under RCW 51.36.015, and listing the types of providers authorized to provide these services.

(b) The physician who attended the injured worker shall inform the injured worker of his or her rights under this title and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the worker. The department shall provide physicians with a manual which outlines the procedures to be followed in applications for compensation involving occupational diseases, and which describes claimants' rights and responsibilities related to occupational disease claims.

(2) If the application required by this section is:

(a) Filed on behalf of the worker by the physician who attended the worker, the physician may transmit the application to the department electronically using facsimile mail;

(b) Made to the department and the employer has not received a copy of the application, the department shall immediately send a copy of the application to the employer; or

(c) Made to a self-insured employer, the employer shall forthwith send a copy of the application to the department.

(3) When the application required by this section is filed on behalf of the worker by the health services provider who attended the worker, the worker shall provide written notice of the claim to his or her employer within ten days after the date the worker received medical treatment. The department shall develop forms to assist the worker in expediently notifying his or her employer of a claim."

Senators Clements and Kohl-Welles spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Clements, Honeyford and Kohl-Welles to Substitute Senate Bill No. 5915.

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

MOTION

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

On page 1, line 2 of the title, after "employers;" strike the remainder of the title and insert "amending RCW 51.28.020; adding a new section to chapter 50.12 RCW; and adding a new section to chapter 51.04 RCW."

MOTION

On motion of Senator Honeyford, the rules were suspended, Engrossed Substitute Senate Bill No. 5915 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5915.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5915 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen,

Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 46

Excused: Senators Delvin, Roach and Zarelli - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5915, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5443, by Senators Kohl-Welles and Keiser

Suppressing workers' compensation claims.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5443 was substituted for Senate Bill No. 5443 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5443 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5443.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5443 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Spanel, Tom and Weinstein - 34

Voting nay: Senators Holmquist, Honeyford, Marr, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Shin, Stevens and Swecker - 12

Excused: Senators Delvin, Roach and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5443, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5676, by Senators Keiser, Kohl-Welles, Murray, Prentice, Hatfield and Kline

Revising provision for receipt of temporary total disability.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5676 was substituted for Senate Bill No. 5676 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5676 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

Senator Clements spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5676.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5676 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 31

Voting nay: Senators Brandland, Carrell, Clements, Hewitt, Holmquist, Honeyford, Marr, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens and Swecker - 15

Excused: Senators Delvin, Roach and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5676, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5675, by Senators Franklin, Kohl-Welles, Keiser, Murray and Kline

Increasing minimum industrial insurance benefits.

The measure was read the second time.

MOTION

Senator Franklin moved that the following striking amendment by Senators Franklin and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker ((~~but not less than one hundred eighty-five dollars~~));

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker ((~~but not less than two hundred twenty-two dollars~~));

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker ((~~but not less than two hundred fifty-three dollars~~));

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker ((~~but not less than two hundred seventy-six dollars~~));

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker ((~~but not less than two hundred ninety-nine dollars~~)); or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker ((~~but not less than three hundred twenty-two dollars~~)).

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

Sec. 2. RCW 51.32.060 and 1993 c 521 s 2 are each amended to read as follows:

(1) When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(a) If married at the time of injury, sixty-five percent of his or her wages ((~~but not less than two hundred fifteen dollars per month~~)).

(b) If married with one child at the time of injury, sixty-seven percent of his or her wages ((~~but not less than two hundred fifty-two dollars per month~~)).

(c) If married with two children at the time of injury, sixty-nine percent of his or her wages ((~~but not less than two hundred eighty-three dollars~~)).

(d) If married with three children at the time of injury, seventy-one percent of his or her wages ((~~but not less than three hundred six dollars per month~~)).

(e) If married with four children at the time of injury, seventy-three percent of his or her wages ((~~but not less than three hundred twenty-nine dollars per month~~)).

(f) If married with five or more children at the time of injury, seventy-five percent of his or her wages ((~~but not less than three hundred fifty-two dollars per month~~)).

(g) If unmarried at the time of the injury, sixty percent of his or her wages ((~~but not less than one hundred eighty-five dollars per month~~)).

(h) If unmarried with one child at the time of injury, sixty-two percent of his or her wages ((~~but not less than two hundred twenty-two dollars per month~~)).

(i) If unmarried with two children at the time of injury, sixty-four percent of his or her wages ((~~but not less than two hundred fifty-three dollars per month~~)).

(j) If unmarried with three children at the time of injury, sixty-six percent of his or her wages ((~~but not less than two hundred seventy-six dollars per month~~)).

(k) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages ((~~but not less than two hundred ninety-nine dollars per month~~)).

(l) If unmarried with five or more children at the time of injury, seventy percent of his or her wages ((~~but not less than three hundred twenty-two dollars per month~~)).

(2) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(3) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(4) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(5) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if a worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (5)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

The limitations under this subsection shall not apply to the payments provided for in subsection (3) of this section.

(6) In the case of new or reopened claims, if the supervisor of industrial insurance determines that, at the time of filing or reopening, the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

(7) The benefits provided by this section are subject to modification under RCW 51.32.067.

Sec. 3. RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993 c 271 s 1 are each reenacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average

monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(4)(a) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her physician for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(b) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

(c) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(d) In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if the worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (7)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2008."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Franklin and Kohl-Welles to Senate Bill No. 5675.

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

MOTION

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

On page 1, line 2 of the title, after "benefits;" strike the remainder of the title and insert "amending RCW 51.32.050 and 51.32.060; reenacting and amending RCW 51.32.090; and providing an effective date."

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Senate Bill No. 5675 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5675.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5675 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 37

Voting nay: Senators Haugen, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug and Schoesler - 8

Absent: Senator Stevens - 1

Excused: Senators Delvin, Roach and Zarelli - 3

ENGROSSED SENATE BILL NO. 5675, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Stevens was excused.

SECOND READING

SENATE BILL NO. 5859, by Senators Kohl-Welles, Prentice, Clements and Murray

Creating a spirits, beer, and wine nightlife liquor license and removing spirits, beer, and wine restaurant license limit. Revised for 2nd Substitute: Changing the formula for determining how many spirits, beer, and wine restaurant liquor licenses can be issued in the state.

MOTION

On motion of Senator Kohl-Welles, Second Substitute Senate Bill No. 5859 was substituted for Senate Bill No. 5859 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Clements be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.24.375 and 1997 c 321 s 61 are each amended to read as follows:

"Society or organization" as used in RCW 66.24.380 means a not-for-profit group organized and operated (1) solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes, or (2) as a local wine industry association registered under section 501(c)(6) of the internal revenue code as it exists on the effective date of this section. No portion of the profits from events sponsored by a not-for-profit group may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization. Any compensation paid to its officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state. A society or organization which is registered with the secretary of state or the federal internal revenue service as a nonprofit organization ((~~may~~)) shall submit such registration, upon request, as proof that it is a not-for-profit group.

Sec. 2. RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006 c 43 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and at one additional off-site retail only location and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW. This section does not prohibit a brewery or microbrewery holding a spirits, beer, and wine restaurant license or a beer and/or wine license under chapter 66.24 RCW operated on the premises of the brewery or microbrewery from holding a second retail only license at a location separate from the premises of the brewery or microbrewery.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Nothing in this section prohibits an organization qualifying under RCW 66.24.375 formed for the purpose of constructing and operating a facility to promote Washington wines from holding retail licenses on the facility property or leasing all or any portion of such facility property to a retail licensee on the facility property if the members of the board of directors or officers of the board for the organization include officers, directors, owners, or employees of a licensed domestic winery. Financing for the construction of the facility must include both public and private money.

(f) Nothing in this section prohibits a bona fide charitable nonprofit society or association registered ((~~as a~~)) under section

501(c)(3) ((~~under~~)) of the internal revenue code, or a local wine industry association registered under section 501(c)(6) of the internal revenue code as it exists on the effective date of this section, and having an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder on its board of directors from holding a special occasion license under RCW 66.24.380.

(g) Nothing in this section prohibits domestic wineries and retailers licensed under chapter 66.24 RCW from jointly producing brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, domestic wineries, and their products.

(h) Nothing in this section prohibits domestic wineries and retail licensees from identifying the wineries on private labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

(i) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

Sec. 3. RCW 66.08.150 and 2003 c 320 s 1 are each amended to read as follows:

The action, order, or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing shall be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order((~~; and~~)). Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty day period due to actions by the licensee or permittee. The board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

Sec. 4. RCW 66.24.244 and 2006 c 302 s 3 and 2006 c 44 s 2 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Any microbrewery licensed under this section may act as a distributor for beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

((~~(3)~~)) (a) The board may issue an endorsement to this license allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.

((~~(4)~~)) (b) The microbrewer obtaining such endorsement must determine, at the time the endorsement is issued, whether the licensed premises will be operated ((~~either~~)) as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

((~~(5)~~)) (3) A microbrewery may hold a retail license under this chapter. This retail license is separate from the brewery license. The licensee may exercise any of the privileges and endorsements granted under the retail license. If the licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine license operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant license or a beer and/or wine license at a location separate from the licensed brewery premises.

(4)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (((~~(5)~~))) (3) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (((~~(5)~~))) (3) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (((~~(5)~~))) (3)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (((~~(5)~~))) (3):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 5. RCW 66.24.244 and 2006 c 44 s 2 are each amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(((~~(3)~~))) (a) The board may issue an endorsement to this license allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.

(((~~(4)~~))) (b) The microbrewer obtaining such endorsement must determine, at the time the endorsement is issued, whether the licensed premises will be operated ((~~either~~)) as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(((~~(5)~~))) (3) A microbrewery may hold a retail license under this chapter. This retail license is separate from the brewery license. The licensee may exercise any of the privileges and endorsements granted under the retail license. If the licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine license operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant license or a beer and/or wine license at a location separate from the licensed brewery premises.

(4)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (((~~(5)~~))) (3) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (((~~(5)~~))) (3) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (((~~(5)~~))) (3)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (((~~(5)~~))) (3):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 6. RCW 66.24.240 and 2006 c 302 s 2 and 2006 c 44 s 1 are each reenacted and amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(6), licensed under this section may also act as a retailer for beer of its own production. Any domestic brewery licensed under this section may act as a distributor for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) A domestic brewery may hold a retail license under this chapter. This retail license is separate from the brewery license. The licensee may exercise any of the privileges and endorsements granted under the retail license. If the licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license at a location separate from the brewery premises.

(4) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

((~~(4)~~)) (5)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ((~~(4)~~)) (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 7. RCW 66.24.240 and 2006 c 44 s 1 are each amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(6), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) A domestic brewery may hold a retail license under this chapter. This retail license is separate from the brewery license. The licensee may exercise any of the privileges and endorsements granted under the retail license. If the licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer,

and wine restaurant license or a beer and/or wine restaurant license at a location separate from the brewery premises.

(4) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(((~~(4)~~))) (5)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (((~~(4)~~))) (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 8. RCW 66.24.420 and 2006 c 101 s 3 and 2006 c 85 s 1 are each reenacted and amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	$2,000
50% or more dedicated dining area	$1,600
Service bar only	$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(e) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a spirits, beer, and wine restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place. The holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license. An

additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand ((~~four~~)) three hundred ((~~fifty~~)) of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in ((~~subsection (7) of~~)) this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the ((~~alcohol~~)) alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 9. RCW 66.24.320 and 2006 c 362 s 1 and 2006 c 101 s 2 are each reenacted and amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in ((~~subsection (3) of~~)) this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the ((~~alcohol~~)) alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

Sec. 10. RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced anywhere outside Washington by a brewery or winery which does not hold a certificate of approval issued by the board; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its exclusive authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title. The board may waive the requirement for the written agreement of exclusivity in situations consistent with the normal marketing practices of certain products, such as classified growths.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(7) "Board" means the liquor control board, constituted under this title.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(10) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(11) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(12) "Distiller" means a person engaged in the business of distilling spirits.

(13) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(14) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(15) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(16) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(17) "Employee" means any person employed by the board.

(18) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(19) "Fund" means 'liquor revolving fund.'

(20) "Hotel" means ((~~every building or other structure~~)) buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests ((~~and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: PROVIDED FURTHER, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms~~)). The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(21) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(22) "Imprisonment" means confinement in the county jail.

(23) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(24) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(25) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(26) "Package" means any container or receptacle used for holding liquor.

(27) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(28) "Permit" means a permit for the purchase of liquor under this title.

(29) "Person" means an individual, copartnership, association, or corporation.

(30) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(31) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(32) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(33) "Regulations" means regulations made by the board under the powers conferred by this title.

(34) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(35) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(36) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(37) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(38) "Store" means a state liquor store established under this title.

(39) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(40) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(41)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(42) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(43) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

NEW SECTION. **Sec. 11.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license shall meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spiritous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises, at dining places in the hotel.

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee shall require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest shall also execute an affidavit verifying that no one under twenty-one years of age shall have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units;

(e) Sell beer, including strong beer, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(g) Place in guest rooms at check-in, a complimentary bottle of beer, including strong beer, or wine in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and shall be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from the board.

(5) All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not

currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where alcohol may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by minors.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

Sec. 12. RCW 66.44.310 and 1998 c 126 s 14 are each amended to read as follows:

(1) Except as otherwise provided by RCW 66.44.316 ((~~and~~)), 66.44.350, and section 11 of this act, it shall be a misdemeanor:

(a) To serve or allow to remain in any area classified by the board as off-limits to any person under the age of twenty-one years;

(b) For any person under the age of twenty-one years to enter or remain in any area classified as off-limits to such a person, but persons under twenty-one years of age may pass through a restricted area in a facility holding a spirits, beer, and wine private club license;

(c) For any person under the age of twenty-one years to represent his or her age as being twenty-one or more years for the purpose of purchasing liquor or securing admission to, or remaining in any area classified by the board as off-limits to such a person.

(2) The Washington state liquor control board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of twenty-one years of age.

Sec. 13. RCW 66.24.400 and 2005 c 152 s 2 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only((~~: PROVIDED, That a hotel, or~~)). A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the ((~~hotel or~~)) club for consumption in guest rooms, hospitality rooms, or at banquets in the ((~~hotel or~~)) club((~~: PROVIDED FURTHER, That~~)). A patron of a bona fide ((~~hotel,~~)) restaurant((~~,~~)) or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the ((~~hotel or~~)) club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants((~~, hotels~~)) and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

Sec. 14. RCW 66.08.180 and 2000 c 192 s 1 are each amended to read as follows:

Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties and forfeitures derived under chapter 13, Laws of 1935 from spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; and sports entertainment facility licenses or spirits, beer, and wine restaurant; spirits, beer, and wine private club; and sports entertainment facility licensees shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death investigations account for the state toxicology program pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape

research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

Sec. 15. RCW 66.08.220 and 1999 c 281 s 2 are each amended to read as follows:

The board shall set aside in a separate account in the liquor revolving fund an amount equal to ten percent of its gross sales of liquor to spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; and sports entertainment facility licensees collected from these licensees pursuant to the provisions of RCW 82.08.150, less the fifteen percent discount provided for in RCW 66.24.440; and the moneys in said separate account shall be distributed in accordance with the provisions of RCW 66.08.190, 66.08.200 and 66.08.210((: ~~PROVIDED, HOWEVER, That~~)). No election unit in which the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; and sports entertainment facility licenses is unlawful shall be entitled to share in the distribution of moneys from such separate account.

Sec. 16. RCW 66.20.010 and 1998 c 126 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit;

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit;

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit;

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation at prices to be fixed by the board;

(8) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board and any such beer or wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a ((~~hotel or similar~~)) facility offering from one to eight lodging units and breakfast to travelers and guests.

Sec. 17. RCW 66.20.310 and 1997 c 321 s 45 are each amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.450, section 11 of this act, or 66.24.570, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

Sec. 18. RCW 66.24.410 and 1983 c 3 s 164 are each amended to read as follows:

(1) "Spirituous liquor," as used in RCW 66.24.400 to 66.24.450, inclusive, means "liquor" as defined in RCW 66.04.010, except "wine" and "beer" sold as such.

(2) "Restaurant" as used in RCW 66.24.400 to 66.24.450, inclusive, means an establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains: PROVIDED, That such establishments shall be approved by the board and that the board shall be satisfied that such establishment is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. The service of only fry orders or such food and victuals as sandwiches, hamburgers, or salads shall not be deemed in compliance with this definition.

(3) "Hotel," "clubs," "wine" and "beer" are used in RCW 66.24.400 to 66.24.450, inclusive, with the meaning given in chapter 66.04 RCW((~~: PROVIDED, That any such hotel shall be provided with special space and accommodations where, in consideration of payment, food is habitually furnished to the public: PROVIDED FURTHER, That the board shall be satisfied that such hotel is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. The service of only fry orders, sandwiches, hamburgers, or salads shall not be deemed in compliance with this definition~~)).

Sec. 19. RCW 66.24.420 and 2006 c 101 s 3 and 2006 c 85 s 1 are each reenacted and amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	$2,000
50% or more dedicated dining area	$1,600
Service bar only	$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

((~~(e) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a spirits, beer, and wine restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place. The holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license. An additional license fee of twenty dollars shall be required for such duplicate licenses.~~))

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand four hundred fifty of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant

license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 20. RCW 66.24.440 and 1998 c 126 s 8 are each amended to read as follows:

Each spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, and sports entertainment facility licensee shall be entitled to purchase any spirituous liquor items salable under such license from the board at a discount of not less than fifteen percent from the retail price fixed by the board, together with all taxes.

NEW SECTION. **Sec. 21.** Sections 4 and 6 of this act expire June 30, 2008.

NEW SECTION. **Sec. 22.** Sections 5 and 7 of this act take effect June 30, 2008.

NEW SECTION. **Sec. 23.** Sections 10 through 20 of this act take effect July 1, 2008."

Senator Kohl-Welles spoke in favor of adoption of the striking amendment.

POINT OF INQUIRY

Senator Benton: "Would the senator yield to a question? We received on our desk some information about allowing a dog into a bar and this bill number was written on it. Does this striking amendment include that provision as well to allow a dog into a bar."

Senator Kohl-Welles: "No."

MOTION

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

On page 42, after line 16 of the amendment, insert the following:

"NEW SECTION. **Sec. 24.** The state board of health shall establish a pilot project by which local government can apply for an exemption from certain food and drug administration food code sections to allow dogs within certain designated outdoor portions of premises holding a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license or certain designated outdoor portions of premises whose main business purpose is selling coffee.

NEW SECTION. **Sec. 25.** (1) The governing body of a local government participating in the pilot project is authorized to establish, by ordinance, a local exemption procedure to section 6-501.115, 2001 food and drug administration food code.

(2) The adoption of the local government exemption procedure shall be at the sole discretion of the governing body of the participating local government.

NEW SECTION. **Sec. 26.** (1) Any local exemption procedure adopted under this act shall only provide a variance to section 6-501.115, 2001 food and drug administration food code, to allow patrons' dogs within certain designated outdoor portions of the establishments designated in section 24 of this act.

(2) In order to protect the health, safety, and general welfare of the public, the local exemption procedure shall require participating establishments to apply for and receive a permit from the local public health department before allowing patrons' dogs on their premises. The local public health department shall require such information from the applicant as the department determines reasonably necessary to enforce the provisions of this act but shall require, at a minimum, the following information:

(a) Name, location, and mailing address of the establishment;

(b) Name, mailing address, and telephone contact information of the permit applicant;

(c) A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor areas; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the local department of health; and

(d) A description of the days of the week and hours of operation that patrons' dogs will be allowed in the designated outdoor area.

(3) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include at least the following requirements:

(a) All employees of the establishments participating in the pilot shall wash their hands immediately after touching, petting, or otherwise handling dogs. Employees are prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the establishment;

(b) Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area;

(c) Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved with food service operations;

(d) Patrons shall ensure their dogs are licensed by the appropriate authority, keep their dogs on a leash at all times, and keep their dogs under reasonable control;

(e) Dogs shall not be allowed on chairs, tables, or other furnishings;

(f) All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled

food and drink shall be removed from the floor or ground between seating of patrons;

(g) Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area;

(h) A sign or signs reminding employees of the applicable rules shall be posted on the premises in a manner and place as determined by the local department of health; and

(i) A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

NEW SECTION. **Sec. 27.** The participating local public health departments shall have such powers as are reasonably necessary to regulate and enforce this act.

NEW SECTION. **Sec. 28.** The state board of health shall develop rules to implement this act.

NEW SECTION. **Sec. 29.** Sections 24 through 28 of this act expire June 30, 2010."

Senator Jacobsen spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Brown: "I request a ruling on whether amendment 208 is within the scope and object of the bill."

MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 5859 was deferred and the bill held its place on the second reading calendar.

The Senate resumed consideration of Second Substitute Senate Bill No. 6117 which had been deferred earlier in the day.

WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 6, line 27 to Second Substitute Senate Bill No. 6117 was withdrawn.

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Poulsen to the striking amendment be adopted.

Beginning on page 6, line 27 of the amendment, strike all of section 4 and insert the following:

"**Sec. 4.** RCW 90.46.130 and 2002 c 329 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, facilities that reclaim water under this chapter shall not impair any existing water right downstream from any freshwater discharge points of such facilities unless there is compensation or mitigation for such impairment ((~~is agreed to by the holder of the affected water right~~)).

(b) Any reclaimed water project that reduces the quantity of sewage treatment plant effluent discharged directly into marine waters is deemed to not impair any existing water rights.

(2) Agricultural water use of agricultural industrial process water and use of industrial reuse water under this chapter shall not impair existing water rights within the water source that is the source of supply for the agricultural processing plant or the industrial processing and, if the water source is surface water, the existing water rights are downstream from the agricultural processing plant's discharge points existing on July 22, 2001, or from the industrial processing's discharge points existing on June 13, 2002.

(3) The department of ecology shall convene and staff a task force to review potential barriers or issues related to development of reclaimed water projects pursuant to the evaluation of water rights impairment under this section and related impairment issues and shall report the findings and any recommendations of this review to the appropriate standing committees of the legislature no later than December 31, 2007. The task force shall be cochaired by a representative from the water quality and the water resources programs at the department, and shall consist of representatives of interested groups, including the attorney general, the department of health, local governments, tribal governments, water utilities, reclaimed water utilities, wastewater utilities, environmental organizations, agricultural organizations, and businesses. The task force shall report its findings to the appropriate legislative committees on or before December 1, 2007. The task force and report shall address the following topics at a minimum: (a) Internal processing of reclaimed water permits by the department, including the ability to deliver timely decisions on potential impairment of water rights; (b) compliance with state and federal water quality standards on existing and future discharges, including potential requirements on wastewater utilities to reduce discharges to water and increase upland discharges; (c) nature of water that is imported into a watershed or potentially exported from the watershed in the form of effluent or reclaimed water; (d) inequities or different treatment of processing of reclaimed water permits and wastewater permits for similar treatment and facilities; (e) ability of existing provisions of state law, such as chapter 90.48 RCW, to address possible impacts to, and mitigation for, stream flows and fish habitat; (f) technical ability to determine impacts to water sources from reclaimed water facilities; (g) approaches to these issues in other western states with significant use of reclaimed water."

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Poulsen on page 6, line 27 to the striking amendment to Second Substitute Senate Bill No. 6117.

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

MOTION

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

On page 14, line 27 of the amendment, after "county" insert "and approved by the qualified municipal water supplier, as defined in RCW 90.03.015, with approval to serve that area"

On page 14, line 33 of the amendment, after "plan" insert ", as long as the water conservation measures have been approved by the qualified municipal water supplier, as defined in RCW 90.03.015, with approval to serve that area"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Fraser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page

14, line 27 to the striking amendment to Second Substitute Senate Bill No. 6117.

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

MOTION

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

On page 16, after line 23 of the amendment, insert the following:

"**Sec. 13.** RCW 90.14.140 and 2001 c 240 s 1, 2001 c 237 s 27, and 2001 c 69 s 5 are each reenacted and amended to read as follows:

(1) For the purposes of RCW 90.14.130 through 90.14.180, "sufficient cause" shall be defined as the nonuse of all or a portion of the water by the owner of a water right for a period of five or more consecutive years where such nonuse occurs as a result of:

(a) Drought, or other unavailability of water;

(b) Active service in the armed forces of the United States during military crisis;

(c) Nonvoluntary service in the armed forces of the United States;

(d) The operation of legal proceedings;

(e) Federal or state agency leases of or options to purchase lands or water rights which preclude or reduce the use of the right by the owner of the water right;

(f) Federal laws imposing land or water use restrictions either directly or through the voluntary enrollment of a landowner in a federal program implementing those laws, or acreage limitations, or production quotas;

(g) Temporarily reduced water need for irrigation use where such reduction is due to varying weather conditions, including but not limited to precipitation and temperature, that warranted the reduction in water use, so long as the water user's diversion and delivery facilities are maintained in good operating condition consistent with beneficial use of the full amount of the water right;

(h) Temporarily reduced diversions or withdrawals of irrigation water directly resulting from the provisions of a contract or similar agreement in which a supplier of electricity buys back electricity from the water right holder and the electricity is needed for the diversion or withdrawal or for the use of the water diverted or withdrawn for irrigation purposes;

(i) Water conservation measures implemented under the Yakima river basin water enhancement project, so long as the conserved water is reallocated in accordance with the provisions of P.L. 103-434;

(j) Reliance by an irrigation water user on the transitory presence of return flows in lieu of diversion or withdrawal of water from the primary source of supply, if such return flows are measured or reliably estimated using a scientific methodology generally accepted as reliable within the scientific community; or

(k) The reduced use of irrigation water resulting from crop rotation. For purposes of this subsection, crop rotation means the temporary change in the type of crops grown resulting from the exercise of generally recognized sound farming practices. Unused water resulting from crop rotation will not be relinquished if the remaining portion of the water continues to be beneficially used.

(2) Notwithstanding any other provisions of RCW 90.14.130 through 90.14.180, there shall be no relinquishment of any water right:

(a) If such right is claimed for power development purposes under chapter 90.16 RCW and annual license fees are paid in accordance with chapter 90.16 RCW;

(b) If such right is used for a standby or reserve water supply to be used in time of drought or other low flow period so long as withdrawal or diversion facilities are maintained in good operating condition for the use of such reserve or standby water supply;

(c) If such right is claimed for a determined future development to take place either within fifteen years of July 1, 1967, or the most recent beneficial use of the water right, whichever date is later;

(d) If such right is claimed for municipal water supply purposes under chapter 90.03 RCW;

(e) If such waters are not subject to appropriation under the applicable provisions of RCW 90.40.030;

(f) If such right or portion of the right is leased to another person for use on land other than the land to which the right is appurtenant as long as the lessee makes beneficial use of the right in accordance with this chapter and a transfer or change of the right has been approved by the department in accordance with RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100;

(g) If such a right or portion of the right is authorized for a purpose that is satisfied by the use of agricultural industrial process water as authorized under RCW 90.46.150; ((~~or~~))

(h) If such right is a trust water right under chapter 90.38 or 90.42 RCW; or

(i) If such a right or portion of the right is authorized for a purpose that is satisfied by the use of reclaimed water as authorized under the provisions of RCW 90.46.150.

(3) In adding provisions to this section by chapter 237, Laws of 2001, the legislature does not intend to imply legislative approval or disapproval of any existing administrative policy regarding, or any existing administrative or judicial interpretation of, the provisions of this section not expressly added or revised."

On page 16, line 27 of the title amendment, after "(uncodified);" insert "reenacting and amending RCW 90.14.140;"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senator Fraser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 16, after line 23 to the striking amendment to Second Substitute Senate Bill No. 6117.

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

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser and Poulsen as amended to Second Substitute Senate Bill No. 6117.

The motion by Senator Fraser carried and the striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "water;" strike the remainder of the title and insert "amending RCW 90.46.005, 90.46.120, 90.46.130, 90.82.043, 90.54.020, and 90.54.180; amending 2006 c 279 s 3 (uncodified); adding a new section to chapter 58.17 RCW; adding new sections to chapter 90.46 RCW; and creating new sections."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6117 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

Senators Honeyford and Hargrove spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6117.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6117 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 31

Voting nay: Senators Benton, Carrell, Clements, Hargrove, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon and Swecker - 14

Excused: Senators Delvin, Roach, Stevens and Zarelli - 4

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6117, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:39 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Monday, March 12, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate