

FIFTY NINTH LEGISLATURE - REGULAR SESSION

FORTY SEVENTH DAY

House Chamber, Olympia, Friday, February 24, 2006

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

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Adam Saul and Ryan Major. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Pastor Paul Lundborg, Lutheran Church of the Good Shepherd.

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

RESOLUTION

HOUSE RESOLUTION NO. 2006-4695, By Representatives Bailey, Sump, Kristiansen, Newhouse, Kenney, Anderson, Alexander, Woods, Haler, McCune, Roberts, Talcott, Morrell, Haigh, Strow, Pearson, Lovick, Morris, Jarrett, Nixon, Kretz, Condotta, Clements, Ericksen, Tom, McCoy, Kagi, Green, Lantz, Upthegrove, B. Sullivan, Dunn, Wallace, Crouse, Skinner, Serben, Hudgins, Cox, Quall, Holmquist, Roach, Armstrong, Springer, Appleton, O'Brien, Blake, Clibborn, Kessler, Kilmer, Simpson and Sells

WHEREAS, The Navy League was established in 1902 by the encouragement of Theodore Roosevelt; and

WHEREAS, The Mission of the Navy League is to educate and motivate Americans to embrace the importance of maritime activities; and

WHEREAS, Our country's freedom and safety is protected by those in the maritime forces; and

WHEREAS, For one hundred four years, the Navy League has been the foremost civilian organization designed to support men and women of the sea services and their families; and

WHEREAS, The Navy League provides support and recognition for the personnel of the Navy, Marines, Coast Guard, and United States Flag Merchant Marines; and

WHEREAS, Many youth programs are offered to increase knowledge of maritime's history, customs, and traditions; and

WHEREAS, The Navy League's programs give students the powerful tools of confidence, personal honor, and respect; and

WHEREAS, Over two hundred thousand dollars in scholarships have been given to students by the Navy League; and

WHEREAS, With over seventy thousand members worldwide, the Navy League is achieving their goals of educating, supporting, and promoting peace throughout the nation and the world;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives applaud the effort and work of the Navy League throughout the world, and also applaud the positive programs the Navy League provides for our youth; and

BE IT FURTHER RESOLVED, That the House of Representatives encourage all agencies of state government to recognize the service and benefits that are provided by the Navy League for the purpose of supporting the people who are dedicated to our country; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Navy League.

Representative Bailey moved the adoption of the resolution.

Representatives Bailey and Appleton spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4695 was adopted.

The Speaker (Representative Lovick presiding) recognized Lieutenant Colonel John Panneton, U.S. Marine Corps, Retired, and National President of the Navy League of the United States; Ron Testa, Northwest Regional President, Navy League of the

United States; Roger Ponto, National Director, Navy League of the United States; Tom Jaffa, National Vice President, Navy League of the United States.

REPORTS OF STANDING COMMITTEES

February 22, 2006

HB 3293 Prime Sponsor, Representative Roach: Regarding disorderly conduct. Reported by Committee on Judiciary

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

HB 3316 Prime Sponsor, Representative Dunshee: Authorizing the issuance of general obligation bonds. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Blake; Chase; Eickmeyer; Ericks; Flannigan; Green; Hasegawa; Lantz; Moeller; Morrell; O'Brien; Schual-Berke; Springer and Upthegrove.

MINORITY recommendation: Do not pass. Signed by Representatives Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Clements; Cox; Ericksen; Kretz; Kristiansen; McCune; Newhouse; Roach; Serben and Strow.

February 23, 2006

SSB 5042 Prime Sponsor, Senate Committee On Judiciary: Tolling the statute of limitations for felony sex offenses. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 5106 Prime Sponsor, Senator Swecker: Clarifying authority over hazardous materials inspections. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Appleton; Buck; Campbell; Clibborn; Dickerson; Flannigan; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Sells; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck; Curtis; Ericksen; Hankins; Holmquist; Nixon; Rodne; Schindler and Shabro.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 5329 Prime Sponsor, Senator Pflug: Establishing an industry cluster-based approach to economic development. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

Passed to Committee on Rules for second reading.

February 22, 2006

ESB 5330 Prime Sponsor, Senator Shin: Creating the economic development grants program. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature declares that it is the state's policy to encourage the use of federal and private funds for economic development purposes and to use state resources to leverage federal and private dollars to supplement state economic development efforts.

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1) The department shall make available, within existing resources, an inventory of grant opportunities for state agencies, local governments, and other community organizations engaged in economic development activities.

(2) In developing the inventory of economic development grant opportunities, the department may:

(a) Regularly review the federal register for opportunities to apply for grants, research projects, and demonstration projects;

(b) Maintain an inventory of grant opportunities with private foundations and businesses; and

(c) Consult with federal officials, including but not limited to those in the small business administration, the department of labor, the department of commerce, the department of agriculture, the department of ecology, as well as private foundations and businesses, on the prospects for obtaining federal and private funds for economic development purposes in Washington state.

(3) The department may also facilitate joint efforts between agencies and between local organizations and state agencies that will increase the likelihood of success in grant seeking and the attraction of major events."

Correct the title.

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

Referred to Committee on Appropriations.

February 22, 2006

ESB 5462 Prime Sponsor, Senator McCaslin: Changing the terms for nonlegislative members of the legislative ethics board. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass. Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt; McDermott; Miloscia; Schindler and Sump.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 5611 Prime Sponsor, Senate Committee On Judiciary: Changing the interest rate on legal financial obligations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 3, beginning on line 32, after "rendered." strike all material through "10.82.090." on line 35 and insert "((The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.))"

Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell; Kirby; Serben; Springer; Williams and Wood.

Referred to Committee on Appropriations.

February 22, 2006

SSB 5654 Prime Sponsor, Senate Committee On Judiciary: Protecting the privacy of personal information of criminal justice officials. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the dissemination of personally identifying information as proscribed in RCW 4.24.680 is not in the public interest.

Sec. 2. RCW 4.24.680 and 2002 c 336 s 1 are each amended to read as follows:

~~((A person or organization shall not, with the intent to harm or intimidate, sell, trade, give, publish, distribute, or otherwise release the residential address, residential telephone number, birthdate, or social security number of any law enforcement-related, corrections officer-related, or court-related employee or volunteer, or someone with a similar name, and categorize them as such, without the express written permission of the employee or volunteer unless specifically exempted by law or court order.))~~

(1) A person shall not knowingly make available on the world wide web the personal information of a peace officer, corrections person, justice, judge, commissioner, public defender, or prosecutor if the dissemination of the personal information poses an imminent and serious threat to the peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's safety or the safety of that person's immediate family and the threat is reasonably apparent to the person making the information available on the world wide web to be serious and imminent.

(2) It is not a violation of this section if an employee of a county auditor or county assessor publishes personal information, in good faith, on the web site of the county auditor or county assessor in the ordinary course of carrying out public functions.

(3) For the purposes of this section:

(a) "Commissioner" means a commissioner of the superior court, court of appeals, or supreme court.

(b) "Corrections person" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those whose civil rights have been limited in some way by legal sanction.

(c) "Immediate family" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's spouse, child, or parent and any other adult who lives in the same residence as the person.

(d) "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate, the United States bankruptcy court, and the Washington court of appeals, superior court, district court, or municipal court.

(e) "Justice" means a justice of the United States supreme court or Washington supreme court.

(f) "Personal information" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's home address, home telephone number, pager number, social security number, home e-mail address, directions to the person's home, or photographs of the person's home or vehicle.

(g) "Prosecutor" means a county prosecuting attorney, a city attorney, the attorney general, or a United States attorney and their assistants or deputies.

(h) "Public defender" means a federal public defender, or other public defender, and his or her assistants or deputies.

Sec. 3. RCW 4.24.700 and 2002 c 336 s 3 are each amended to read as follows:

~~((Any law enforcement-related, corrections officer-related, or court-related employee or volunteer who suffers damages as a result of a person or organization selling, trading, giving, publishing, distributing, or otherwise releasing the residential address, residential telephone number, birthdate, or social security number of the employee or volunteer in violation of RCW 4.24.680 may bring an action against the person or organization in court for actual damages sustained, plus attorneys' fees and costs.))~~

Any person whose personal information is made available on the world wide web as described in RCW 4.24.680(1) who suffers damages as a result of such conduct may bring an action against the person or organization who makes such information available, for actual damages sustained plus damages in an amount not to exceed one thousand dollars for each day the personal information was made available on the world wide web, and reasonable attorneys' fees and costs.

NEW SECTION. Sec. 4. 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."

Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

2SSB 5717 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Requiring a study on the availability and use of skill centers. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis; Haigh; Hunter; McDermott; Priest; Santos; Shabro; Tom and Wallace.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 5838 Prime Sponsor, Senate Committee On Health & Long-Term Care: Limiting the substitution of preferred drugs in hepatitis C treatment. Reported by Committee on Health Care

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6059 Prime Sponsor, Senator Berkey: Authorizing state agencies to create sick leave pools for employees. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 41.04 RCW to read as follows:

The department of personnel and other personnel authorities shall adopt rules governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave that has been personally accrued by him or her. Each department or agency of the state may allow employees to participate in a sick leave pool established by the department of personnel.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) Rules adopted by the department shall provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the department of personnel.

NEW SECTION. Sec. 2. This act takes effect July 1, 2007."

Correct the title.

Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt; McDermott; Miloscia; Schindler and Sump.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6106 Prime Sponsor, Senate Committee On Health & Long-Term Care: Requiring disclosure of specified health care information for law enforcement purposes. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The purpose of this act is to aid law enforcement in combating crime through the rapid identification of all persons who require medical treatment as a result of a criminal act and to assist in the rapid identification of human remains.

Sec. 2. RCW 70.02.010 and 2005 c 468 s 1 are each amended to read as follows:

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

(1) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

- (a) Statutory, regulatory, fiscal, medical, or scientific standards;
- (b) A private or public program of payments to a health care provider; or
- (c) Requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(3) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

(4) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

~~((4))~~ (5) "Health care" means any care, service, or procedure provided by a health care provider:

- (a) To diagnose, treat, or maintain a patient's physical or mental condition; or
- (b) That affects the structure or any function of the human body.

~~((5))~~ (6) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

~~((6))~~ (7) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

~~((7))~~ (8) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset and fund-raising for the benefit of the health care provider, health care facility, or third-party payor.

~~((8))~~ (9) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

~~((9))~~ (10) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

~~((10))~~ (11) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

~~((11))~~ (12) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

~~((12))~~ (13) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

~~((13))~~ (14) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

~~((14))~~ (15) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

~~((15))~~ (16) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan; or a state or federal health benefit program.

~~((16))~~ (17) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

Sec. 3. RCW 70.02.050 and 2005 c 468 s 4 are each amended to read as follows:

(1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(d) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose;

(e) To immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(g) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project;

and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) To an official of a penal or other custodial institution in which the patient is detained;

(j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(k) To fire, police, sheriff, or another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(m) To another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010((7)) (8) (a) and (b); or

(n) For payment.

(2) A health care provider shall disclose health care information about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws; or when needed to protect the public health;

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(c) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

(i) The name of the patient;

(ii) The patient's residence;

- (iii) The patient's sex;
- (iv) The patient's age;
- (v) The patient's condition;
- (vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
- (vii) Whether the patient was conscious when admitted;
- (viii) The name of the health care provider making the determination in (c)(v), (vi), and (vii) of this subsection;
- (ix) Whether the patient has been transferred to another facility; and
- (x) The patient's discharge time and date;

(d) To county coroners and medical examiners for the investigations of deaths;
~~((d))~~ (e) Pursuant to compulsory process in accordance with RCW 70.02.060.

(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

Sec. 4. RCW 68.50.320 and 2001 c 223 s 1 are each amended to read as follows:

When a person reported missing has not been found within thirty days of the report, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

When a person reported missing has not been found within thirty days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the county coroner or medical examiner prior to the preparation of a missing person's report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement authority shall submit a missing person's report and the dental records received under this section to the dental identification system of the state patrol identification, child abuse, vulnerable adult abuse, and criminal history section on forms supplied by the state patrol for such purpose.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons.

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

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6141 Prime Sponsor, Senate Committee On Water, Energy & Environment: Including the value of wind turbine facilities in the property tax levy limit calculation. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hankins; Hudgins; P. Sullivan; Sump; Takko and Wallace.

Referred to Committee on Finance.

February 22, 2006

ESSB 6151 Prime Sponsor, Senate Committee On Water, Energy & Environment: Protecting aquifer levels. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Chase and McCoy.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6162 Prime Sponsor, Senator Haugen: Harmonizing and updating various aspects of the urban arterial program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Appleton; Campbell; Clibborn; Dickerson; Flannigan; Hankins; Hudgins; Kilmer; Lovick; Morris; Sells; Simpson; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck; Curtis; Ericksen; Holmquist; Jarrett; Nixon; Rodne; Schindler and Shabro.

Passed to Committee on Rules for second reading.

February 22, 2006

ESB 6169 Prime Sponsor, Senator Kohl-Welles: Authorizing removal of discriminatory provisions in the governing documents of homeowners' associations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

ESSB 6189 Prime Sponsor, Senate Committee On Health & Long-Term Care: Requiring hospitals to provide patients certain billing information. Reported by Committee on Health Care

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6196 Prime Sponsor, Senate Committee On Health & Long-Term Care: Including a health official from a federally recognized tribe on the state board of health. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.20.030 and 1984 c 287 s 75 and 1984 c 243 s 2 are each reenacted and amended to read as follows:

The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, one of whom is a health official from a federally recognized tribe; an elected city official who is a member of a local health board((§)); an elected county official who is a member of a local health board((§)); a local health officer((§)); and two persons representing the consumers of health care. Before appointing the city

official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department of (~~social and health services~~) health shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 2. This act shall be known as the Sue Crystal memorial act."

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Appleton; Clibborn; Green; Lantz; Moeller; Morrell and Schual-Berke.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Bailey; Condotta and Skinner.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6201 Prime Sponsor, Senate Committee On Financial Institutions, Housing & Consumer Protection: Creating a homeowners' association act committee. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6219 Prime Sponsor, Senator Keiser: Providing for financial literacy education. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended:

On page 2, after line 5, insert the following:

"**Sec. 3.** RCW 28A.300.455 and 2004 c 247 s 3 are each amended to read as follows:

(1) By September 30, 2004, the financial literacy public-private partnership shall adopt a definition of financial literacy to be used in educational efforts.

(2) By June 30, (~~2005~~) 2007, the financial literacy public-private partnership shall identify strategies to increase the financial literacy of public school students in our state. To the extent funds are available, strategies to be considered by the partnership shall include, but not be limited to:

(a) Identifying and making available to school districts:

(i) Important financial literacy skills and knowledge;

(ii) Ways in which teachers at different grade levels may integrate financial literacy in mathematics, social studies, and other course content areas;

(iii) Instructional materials and programs, including schoolwide programs, that include the important financial literacy skills and knowledge;

(iv) Assessments and other outcome measures that schools and communities may use to determine whether students are financially literate;

(~~and~~)

(v) A template and resource materials to aid districts in guiding student culminating projects with a focus on personal finance; and

(vi) Other strategies for expanding and increasing the quality of financial literacy instruction in public schools, including professional development for teachers;

(b) Developing a structure and set of operating principles for the financial literacy public-private partnership to assist interested school districts in improving the financial literacy of their students by providing such things as financial literacy instructional materials and professional development; (~~and~~)

(c) Developing essential academic learning requirements for personal finance;

(d) Preparing recommendations for the inclusion of financial literacy principles in the Washington assessment of student learning; and

(e) Providing a report to the governor, the house and senate financial institutions and education committees of the legislature, the superintendent of public instruction, the state board of education, and education stakeholder groups, on the results of work of the financial literacy public-private partnership. A final report shall be submitted to the same parties by June 30, (~~2007~~) 2008.

Sec. 4. RCW 28A.300.460 and 2004 c 247 s 5 are each amended to read as follows:

The task of the financial literacy public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial literacy examined shall include, at a minimum, consumer financial education, personal finance, and personal credit. The partnership shall identify the types of outcome measures expected from participating districts and students, in accordance with the definitions and outcomes developed under RCW 28A.300.455.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) To the extent funds are appropriated or are available for this purpose, the superintendent of public instruction and other members of the partnership created in RCW 28A.300.455 shall make available to school districts the list of identified financial literacy skills and knowledge, instructional materials, assessments, and other relevant information.

(2) For the purposes of RCW 28A.300.455, 28A.300.460, and this section, it is not necessary to evaluate and apply the office of the superintendent of public instruction essential academic learning requirements or to develop grade level expectations.

NEW SECTION. **Sec. 6.** (1) The sum of fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2007, from the general fund to the Washington financial literacy public-private partnership account for the purposes of RCW 28A.300.465.

(2) The amount in this section is provided solely for the purposes of RCW 28A.300.465. The superintendent of public instruction or the superintendent's designee may authorize expenditure of the amount provided in this section as equal matching amounts from nonstate sources are received in the Washington financial literacy public-private partnership account.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis; Haigh; Hunter; McDermott; Priest; Santos; Shabro; Tom and Wallace.

Referred to Committee on Appropriations.

February 22, 2006

SSB 6221 Prime Sponsor, Senate Committee On Government Operations & Elections: Concerning use of public funds to finance campaigns for local office. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended:

On page 1, line 11, after "office." strike all material through "power." on line 15 and insert the following:

"The ordinance or resolution must be submitted to, and approved by, a vote of the people at the next general election in the form of a referendum, or the form of an advisory ballot, or through the initiative process for those jurisdictions that have those powers."

Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Hunt; McDermott and Miloscia.

MINORITY recommendation: Do not pass. Signed by Representatives Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Schindler and Sump.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6223 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Modifying provisions regarding abandoned or derelict vessels. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 79.100 RCW to read as follows:

A person who causes a vessel to become abandoned or derelict upon aquatic lands is guilty of a misdemeanor.

Sec. 2. RCW 79.100.010 and 2002 c 286 s 2 are each amended to read as follows:

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

(1) "Abandoned vessel" means the vessel's owner is not known or cannot be located, or if the vessel's owner is known and located but is unwilling to take control of the vessel, and the vessel has been left, moored, or anchored in the same area without the express consent, or contrary to the rules, of the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five day period. For the purposes of this subsection (1) only, "in the same area" means within a radius of five miles of any location where the vessel was previously moored or anchored on aquatic lands.

(2) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(3) "Authorized public entity" includes any of the following: The department of natural resources; the department of fish and wildlife; the parks and recreation commission; a metropolitan park district; a port district; and any city, town, or county with ownership, management, or jurisdiction over the aquatic lands where an abandoned or derelict vessel is located.

(4) "Department" means the department of natural resources.

(5) "Derelict vessel" means the vessel's owner is known and can be located, and exerts control of a vessel that:

(a) Has been moored, anchored, or otherwise left in the waters of the state or on public property contrary to RCW ~~((79.01.760))~~ 79.02.300 or rules adopted by an authorized public entity;

(b) Has been left on private property without authorization of the owner; or

(c) Has been left for a period of seven consecutive days, and:

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

(6) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(7) "Vessel" has the same meaning as defined in RCW 53.08.310.

Sec. 3. RCW 79.100.040 and 2002 c 286 s 5 are each amended to read as follows:

(1) Prior to exercising the authority granted in RCW 79.100.030, the authorized public entity must first obtain custody of the vessel. To do so, the authorized public entity must:

(a) Mail notice of its intent to obtain custody, at least twenty days prior to taking custody, to the last known address of the previous owner to register the vessel in any state or with the federal government and to any lien holders or secured interests on record. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state or federal agency;

(b) Post notice of its intent clearly on the vessel for thirty days and publish its intent at least once, more than ten days but less than twenty days prior to taking custody, in a newspaper of general circulation for the county in which the vessel is located; and

(c) Post notice of its intent on the department's internet web site on a page specifically designated for such notices. If the authorized public entity is not the department, the department must facilitate the internet posting.

(2) All notices sent, posted, or published in accordance with this section must, at a minimum, explain the intent of the authorized public entity to take custody of the vessel, the rights of the authorized public entity after taking custody of the vessel as provided in RCW 79.100.030, the procedures the owner must follow in order to avoid custody being taken by the authorized public entity, the procedures the owner must follow in order to reclaim possession after custody is taken by the authorized public entity, and the financial liabilities that the owner may incur as provided for in RCW 79.100.060.

(3) If a vessel is in immediate danger of sinking, breaking up, or blocking navigational channels, and the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility for the vessel, ~~((am))~~ any authorized public entity may tow, beach, or otherwise take temporary possession of the vessel. Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department ~~((and))~~ or the United States coast guard to ensure that other remedies are not available. The basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. If the authorized public entity has not already provided the required notice, immediately after taking possession of the vessel, the authorized public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in RCW 79.100.050.

Sec. 4. RCW 79.100.060 and 2002 c 286 s 7 are each amended to read as follows:

(1) The owner of an abandoned or derelict vessel is responsible for reimbursing an authorized public entity for all reasonable and auditable costs associated with the removal or disposal of the owner's vessel under this chapter. These costs include, but are not limited to, costs incurred exercising the authority granted in RCW 79.100.030, all administrative costs incurred by the authorized public entity during the procedure set forth in RCW 79.100.040, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. An authorized public entity that has taken temporary possession of a vessel may require that all reasonable and auditable costs associated with the removal of the vessel be paid before the vessel is released to the owner.

(2) Reimbursement for costs may be sought from an owner who is identified subsequent to the vessel's removal and disposal.

(3) If the full amount of all costs due to the authorized public entity under this chapter is not paid to the authorized public entity within thirty days after first notifying the responsible parties of the amounts owed, the authorized public entity or the department may bring an action in any court of competent jurisdiction to recover the costs, plus reasonable attorneys' fees and costs incurred by the authorized public entity.

NEW SECTION. Sec. 5. A new section is added to chapter 79.100 RCW to read as follows:

(1) A person seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the aquatic resources division of the department within twenty days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the department shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the department shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for hearing is filed, the department shall set the hearing on a date that is within ten business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the department shall set the hearing on a date that is within sixty days of the filing of the request for hearing.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, then a person requesting a hearing under this section must follow the procedure established in RCW 53.08.320(5) for contesting the decisions or actions of moorage facility operators.

Sec. 6. RCW 79.100.100 and 2002 c 286 s 11 are each amended to read as follows:

(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into the account. The account is authorized to receive gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account shall be used by the department to reimburse authorized public entities for ~~((seventy-five))~~ up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. ~~((During the 2001-2003 biennium, up to forty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.))~~ Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each ~~((subsequent))~~ biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

(3) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(4) The department must keep all authorized public entities apprized of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (4) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(5) An authorized public entity may contribute its ~~((twenty-five))~~ ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

NEW SECTION. Sec. 7. RCW 79.100.090 (Contest custody/reimbursement--Lawsuit) and 2002 c 286 s 10 are each repealed."

Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler; Dickerson; Hunt; Kagi and Orcutt.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6225 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Regulating the business of installing, repairing, and maintaining domestic water pumping systems. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6248 Prime Sponsor, Senator Haugen: Requiring the department of transportation to reimburse drainage and diking districts for maintenance and repairs to drainage facilities if the department does not respond to written notice by the districts. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Takko; Upthegrove and Wood.

MINORITY recommendation: Without recommendation. Signed by Representatives Simpson.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6330 Prime Sponsor, Senate Committee On International Trade & Economic Development: Establishing the Washington trade corps fellowship program. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Blake; Chase; Clibborn; Grant; Holmquist; Kilmer; McCoy; Morrell; Newhouse; Quall; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Bailey; Buri; Dunn; Haler; Kretz and Strow.

Referred to Committee on Appropriations.

February 22, 2006

ESB 6342 Prime Sponsor, Senator Kline: Changing the election and appointment provisions for municipal court judges. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Rodne, Assistant Ranking Minority Member; Kirby; Serben and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Priest, Ranking Minority Member; Springer and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6364 Prime Sponsor, Senator Roach: Prohibiting certain activities on motor driven boats and vessels. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

- (1) Carbon monoxide is a potentially deadly gas that can lead to brain injury and death.
- (2) Marine engines are not subject to the same federal and state-mandated emission controls as automobiles and, therefore, can emit dangerously high concentrations of carbon monoxide into the atmosphere, increasing the chance of exposure to potentially lethal amounts of carbon monoxide.
- (3) Federal agencies have found that carbon monoxide can gather in deadly concentrations behind ski boats and cabin cruisers.
- (4) Dangerous levels of carbon monoxide can accumulate around vessel swim decks and areas at the stern of the boat where occupants frequently sit or swim because the exhaust ports for both propulsion engines and generators are located nearby.

NEW SECTION. Sec. 2. A new section is added to chapter 79A.60 RCW to read as follows:

- (1) It is unlawful for a person to operate a motor driven boat or vessel, other than a personal watercraft, or have the engine of a vessel run idle, when an individual is engaged in stern deck recreation.
- (2) A violation of this subsection is an infraction punishable by a fine of up to one hundred dollars.

Sec. 3. RCW 79A.60.630 and 2005 c 392 s 3 are each amended to read as follows:

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The program shall be phased in so that all boaters not exempted under RCW 79A.60.640(3) are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

January 1, 2008 - All boat operators twenty years old and younger;
 January 1, 2009 - All boat operators twenty-five years old and younger;
 January 1, 2010 - All boat operators thirty years old and younger;
 January 1, 2011 - All boat operators thirty-five years old and younger;
 January 1, 2012 - All boat operators forty years old and younger;
 January 1, 2013 - All boat operators fifty years old and younger;
 January 1, 2014 - All boat operators sixty years old and younger;
 January 1, 2015 - All boat operators seventy years old and younger;
 January 1, 2016 - All boat operators;

(b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;

(c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;

(d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;

(e) Include information about the dangers of carbon monoxide poisoning at the stern of a vessel and how to prevent such poisoning;

(f) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

~~((f))~~ (g) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.040;

~~((g))~~ (h) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

~~((h))~~ (i) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;

~~((i))~~ (j) Approve and provide accreditation to boating safety education courses offered online; and

~~((j))~~ (k) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education program.

NEW SECTION. Sec. 4. A new section is added to chapter 88.02 RCW to read as follows:

(1) Any new or used motor driven boat or vessel, as that term is defined in RCW 79A.60.010, other than a personal watercraft, sold within this state must display a carbon monoxide warning sticker developed by the department on the interior of the vessel.

(2) For vessels sold by a dealer, the dealer shall ensure that the warning sticker has been affixed prior to completing a transaction.

(3) For a vessel sold by an individual, the department shall include the sticker in the registration materials provided to the new owner, and the department shall notify the new owner that the sticker must be affixed as described in subsection (1) of this section.

(4) A warning sticker already developed by a vessel manufacturer may satisfy the requirements of this section if it has been approved by the department. The department shall approve a carbon monoxide warning sticker that has been approved by the United States coast guard for similar uses in other states.

NEW SECTION. Sec. 5. A new section is added to chapter 88.02 RCW to read as follows:

The department shall include an informational brochure about the dangers of carbon monoxide poisoning and vessels and the warning stickers required by section 4 of this act as part of the registration materials mailed by the department for two consecutive years for registrations that are due or become due after the effective date of this section, and thereafter upon recommendation by the director of the department. The materials shall instruct the vessel owner to affix the stickers as required by section 4 of this act.

Sec. 6. RCW 79A.60.010 and 2005 c 392 s 2 are each amended to read as follows:

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

(1) "Accredited course" means a mandatory course of instruction on boating safety education that has been approved by the commission.

(2) "Boat wastes" includes, but is not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

(3) "Boater" means any person on a vessel on waters of the state of Washington.

(4) "Boater education card" means a card issued to a person who has successfully completed a boating safety education test and has paid the registration fee for a serial number record to be maintained in the commission's data base.

(5) "Boating educator" means a person providing an accredited course.

(6) "Carrying passengers for hire" means carrying passengers in a vessel on waters of the state for valuable consideration, whether given directly or indirectly or received by the owner, agent, operator, or other person having an interest in the vessel. This shall not include trips where expenses for food, transportation, or incidentals are shared by participants on an even basis. Anyone receiving compensation for skills or money for amortization of equipment and carrying passengers shall be considered to be carrying passengers for hire on waters of the state.

(7) "Certificate of accomplishment" means a form of certificate approved by the commission and issued by a boating educator to a person who has successfully completed an accredited course.

(8) "Commission" means the state parks and recreation commission.

(9) "Darkness" means that period between sunset and sunrise.

(10) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(11) "Guide" means any individual, including but not limited to subcontractors and independent contractors, engaged for compensation or other consideration by a whitewater river outfitter for the purpose of operating vessels. A person licensed under RCW 77.65.480 or 77.65.440 and acting as a fishing guide is not considered a guide for the purposes of this chapter.

(12) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(13) "Motor driven boats and vessels" means all boats and vessels which are self propelled.

(14) "Motor vessel safety operating and equipment checklist" means a printed list of the safety requirements for a vessel with a motor installed or attached to the vessel being rented, chartered, or leased and meeting minimum requirements adopted by the commission in accordance with RCW 79A.60.630.

(15) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(16) "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.

(17) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

(18) "Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.

(19) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(20) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(21) "Personal flotation device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the commission.

(22) "Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(23) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.

(24) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(25) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.

(26) "Rental motor vessel" means a motor vessel that is legally owned by a person that is registered as a rental and leasing agency for recreational motor vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

(27) "Sewage pumpout or dump unit" means:

(a) A receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container; and

(b) A stationary or portable mechanical device on land, a dock, pier, float, barge, vessel, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

(28) "Stern deck recreation" means any aquatic recreation that involves holding onto or otherwise being in direct contact with the stern of a motor driven boat or vessel, other than a personal watercraft, while the vessel is being operated at any speed or when the vessel's engine is at idle. The term includes holding onto the swim deck, swim platform, swim ladder, or any other portion of the exterior or transom of the vessel and floating or swimming on one's stomach or back in the wake directly behind a vessel. The term does not include being dragged or pulled behind a vessel on the end of a length of rope, and does not include activities required for docking, departing, exiting, or entering the vessel, or for activities occurring when the vessel is engaged in law enforcement or emergency rescue activities.

(29) "Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

~~((29))~~ (30) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers.

~~((30))~~ (31) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

~~((31))~~ (32) "Waters of the state" means any waters within the territorial limits of Washington state.

~~((32))~~ (33) "Whitewater river outfitter" means any person who is advertising to carry or carries passengers for hire on any whitewater river of the state, but does not include any person whose only service on a given trip is providing instruction in canoeing or kayaking skills.

~~((33))~~ (34) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as listed in RCW 79A.60.470 or as designated by the commission under RCW 79A.60.495.

Sec. 7. RCW 79A.60.610 and 1994 c 151 s 2 are each amended to read as follows:

The commission shall undertake a statewide recreational boating fire prevention education program concerning the safe use of marine fuels and electrical systems ~~(and the hazards of carbon monoxide)~~. The boating fire prevention education program shall provide for the distribution of fire safety materials and decals warning of fire hazards and for educational opportunities to educate boaters on the safety practices needed to operate heaters, stoves, and other appliances in Washington's unique aquatic environment. The commission shall evaluate the boating public's voluntary participation in the program and the program's impact on safe boating.

NEW SECTION. **Sec. 8.** This act may be known and cited as the Jenda Jones and Denise Colbert safe boating act.

NEW SECTION. **Sec. 9.** Sections 4 and 5 of this act take effect January 1, 2007."

Correct the title.

Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler; Dickerson; Hunt; Kagi and Orcutt.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6365 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Changing fees in the weights and measures program. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends that the state's weights and measures program meet the national average for frequency of inspections as reported by the national conference on weights and measures in its 2003 survey of inspection statistics, or a successor report."

Correct the title.

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Appleton; Blake; Chase; Clibborn; Grant; McCoy; Morrell; Quall; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Bailey; Buri; Dunn; Haler; Holmquist; Kilmer; Kretz; Newhouse and Strow.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6371 Prime Sponsor, Senator Rasmussen: Regulating the disposal of dead animals. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

Passed to Committee on Rules for second reading.

February 21, 2006

SB 6373 Prime Sponsor, Senator Keiser: Removing expiration of reporting to the legislature of holding a boarding home medicaid eligible resident's room or unit. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.20.290 and 2004 c 142 s 13 are each amended to read as follows:

(1) When a boarding home contracts with the department to provide adult residential care services, enhanced adult residential care services, or assisted living services under chapter 74.39A RCW, the boarding home must hold a medicaid eligible resident's room or unit when short-term care is needed in a nursing home or hospital, the resident is likely to return to the boarding home, and payment is made under subsection (2) of this section.

(2) The medicaid resident's bed or unit shall be held for up to twenty days. The per day bed or unit hold compensation amount shall be seventy percent of the daily rate paid for the first seven days the bed or unit is held for the resident who needs short-term nursing home care or hospitalization. The rate for the eighth through the twentieth day a bed is held shall be established in rule, but shall be no lower than ten dollars per day the bed or unit is held.

(3) The boarding home may seek third-party payment to hold a bed or unit for twenty-one days or longer. The third-party payment shall not exceed the medicaid daily rate paid to the facility for the resident. If third-party payment is not available, the medicaid resident may return to the first available and appropriate bed or unit, if the resident continues to meet the admission criteria under this chapter.

~~((4) The department shall monitor the use and impact of the policy established under this section and shall report its findings to the appropriate committees of the senate and house of representatives by December 31, 2005.~~

~~—(5) This section expires June 30, 2006.)"~~

On page 1, line 2 of the title, after "unit;" strike the remainder of the title and insert "and amending RCW 18.20.290."

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 22, 2006

ESB 6376 Prime Sponsor, Senator Rasmussen: Changing livestock inspection fee provisions. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

Passed to Committee on Rules for second reading.

February 21, 2006

ESSB 6391 Prime Sponsor, Senate Committee On Health & Long-Term Care: Concerning the provision of services for nonresident individuals residing in long-term care settings. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.20.020 and 2004 c 142 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, a boarding home that is licensed for three to six residents prior to or on July 1, 2000, may maintain its boarding home license as long as it is continually licensed as a boarding home. "Boarding home" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(2) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(4) "Secretary" means the secretary of social and health services.

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

(6) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the boarding home and to receive information from the boarding home, if there is no legal representative. The resident's competence shall be determined using the criteria in RCW 11.88.010(1)(e). The resident's representative may not be affiliated with the licensee, boarding home, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

(7) "Domiciliary care" means: Assistance with activities of daily living provided by the boarding home either directly or indirectly; or health support services, if provided directly or indirectly by the boarding home; or intermittent nursing services, if provided directly or indirectly by the boarding home.

(8) "General responsibility for the safety and well-being of the resident" means the provision of the following: Prescribed general low sodium diets; prescribed general diabetic diets; prescribed mechanical soft foods; emergency assistance; monitoring of the resident; arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary; coordinating health care services with outside health care providers consistent with RCW 18.20.380; assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices; observation of the resident for changes in overall functioning; blood pressure checks as scheduled; responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; or medication assistance as permitted under RCW 69.41.085 and as defined in RCW 69.41.010.

(9) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, boarding home, or management company, unless the affiliated person is a family member of the resident.

(10) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in a boarding home and may receive one or more of the services listed in RCW 18.20.030(5)~~(-but)~~. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the ((facility)) boarding home and may not receive the items and services listed in subsection (8) of this section, except during the time the person is receiving adult day services as defined in this section.

(11) "Resident" means an individual who is not related by blood or marriage to the operator of the boarding home, and by reason of age or disability, chooses to reside in the boarding home and receives basic services and one or more of the services listed under general responsibility for the safety and well-being of the resident and may receive domiciliary care or respite care provided directly or indirectly by the boarding home and shall be permitted to receive hospice care through an outside service provider when arranged by the resident or the resident's legal representative under RCW 18.20.380.

(12) "Resident applicant" means an individual who is seeking admission to a licensed boarding home and who has completed and signed an application for admission, or such application for admission has been completed and signed in their behalf by their legal representative if any, and if not, then the designated representative if any.

(13) "Adult day services" means care and services provided to a nonresident individual by the boarding home on the boarding home premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

NEW SECTION. Sec. 2. A new section is added to chapter 18.135 RCW to read as follows:

This chapter does not prohibit or restrict the performance of blood-drawing procedures by health care assistants in the residences of research study participants when such procedures have been authorized by the institutional review board of a comprehensive cancer center or nonprofit degree-granting institution of higher education and are conducted under the general supervision of a physician.

Sec. 3. RCW 18.135.040 and 1984 c 281 s 3 are each amended to read as follows:

A certification issued to a health care assistant pursuant to this chapter shall be authority to perform only the functions authorized in RCW 18.135.010 subject to proper delegation and supervision in the health care facility making the certification or under the supervision of the certifying health care practitioner in other health care facilities or in his or her office or in the residences of research study participants in accordance with section 2 of this act. No certification made by one health care facility or health care practitioner is transferrable to another health care facility or health care practitioner.

NEW SECTION. Sec. 4. 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."

On page 1, line 2 of the title, after "settings;" strike the remainder of the title and insert "amending RCW 18.20.020 and 18.135.040; and adding a new section to chapter 18.135 RCW."

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 21, 2006

SSB 6401 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Modifying definitions of charter licenses. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler; Dickerson; Hunt; Kagi and Orcutt.

Passed to Committee on Rules for second reading.

February 21, 2006

ESSB 6428 Prime Sponsor, Senate Committee On Water, Energy & Environment: Providing for electronic product recycling. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products must be established. The legislature further finds that the system must encourage the design of electronic products that are less toxic and more recyclable. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the collection, transportation, and recycling system.

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

(1) "Authority" means the Washington materials management and financing authority created under section 28 of this act.

(2) "Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

(3) "Board" means the board of directors of the Washington materials management and financing authority created under section 29 of this act.

(4) "Collector" means an entity licensed to do business in the state that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the purpose of recycling and meets minimum standards that may be developed by the department.

(5) "Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, and recycling services, in whole or in part, that will be provided to the citizens of the state within service areas as described in the approved standard plan.

(6) "Covered electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally, a desktop computer, a laptop or a portable computer, or a cathode ray tube or flat panel television having a viewable area greater than four inches when measured diagonally that has been used in the state by any covered entity regardless of original point of purchase. "Covered electronic product" does not include: (a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft; (b) monitoring and control instruments or systems; (c) medical devices; (d) products including materials intended for use as ingredients in those products as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts; (e) equipment used in the delivery of patient care in a health care setting; (f) a computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (g) hand-held portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

(7) "Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

(8) "Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from households or other covered entities in quantities generated from households.

(9) "Department" means the department of ecology.

(10) "Electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or a portable computer; or a cathode ray tube or flat screen television having a viewable area greater than four inches when measured diagonally.

(11) "Equivalent share" means the weight in pounds of covered electronic products for which an individual manufacturer is responsible under this chapter as determined by the department under section 20 of this act.

(12) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(13) "Independent plan" means a plan for the collection, transportation, and recycling of unwanted covered electronic products that is developed, implemented, and financed by an individual manufacturer or by an authorized party.

(14) "Manufacturer" means any person, in business or no longer in business but having a successor in interest, who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a covered electronic product under its own brand names for sale in or into this state;

(b) Assembles or has assembled a covered electronic product that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) Resells or has resold in or into this state under its own brand names a covered electronic product produced by other suppliers, including retail establishments that sell covered electronic products under their own brand names;

(d) Imports or has imported a covered electronic product into the United States that is sold in or into this state. However, if a company from whom an importer purchases or has purchased the merchandise performs activities conducted under the standards established for interstate commerce under the commerce clause of the United States Constitution, that company is deemed to be the manufacturer; or

(e) Manufactures or manufactured a cobranded product for sale in or into this state that carries the name of both the manufacturer and a retailer.

(15) "New entrant" means: (a) A manufacturer of televisions that have been sold in the state for less than ten years; or (b) a manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in the state for less than five years. However, a manufacturer of both televisions and computers or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is not considered a new entrant for purposes of this chapter.

(16) "Orphan product" means a covered electronic product that lacks a manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest.

(17) "Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

(18) "Plan's return share" means the sum of the return shares of each manufacturer participating in that plan.

(19) "Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households. "Premium service" does not include curbside service.

(20) "Processor" means an entity engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and prepare those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter and by the department. A processor may also salvage parts to be used in new products.

(21) "Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

(22) "Program" means the collection, transportation, and recycling activities conducted to implement an independent plan or the standard plan.

(23) "Program year" means each full calendar year after the program has been initiated.

(24) "Recycling" means transforming or remanufacturing unwanted electronic products, components, and byproducts into usable or marketable materials for use other than landfill disposal or incineration. "Recycling" does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and byproducts with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(25) "Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(26) "Return share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under section 19 of this act.

(27) "Reuse" means any operation by which an electronic product or a component of a covered electronic product changes ownership and is used for the same purpose for which it was originally purchased.

(28) "Small business" means a business employing less than fifty people.

(29) "Small government" means a city in the state with a population less than fifty thousand, a county in the state with a population less than one hundred twenty-five thousand, and special purpose districts in the state.

(30) "Standard plan" means the plan for the collection, transportation, and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

(31) "Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

(32) "Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

(33) "White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in the state within ten years prior to a program year for televisions or within five years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

NEW SECTION. Sec. 3. (1) A manufacturer must participate in an independent plan or the standard plan to implement and finance the collection, transportation, and recycling of covered electronic products.

(2) An independent plan or the standard plan must be implemented and fully operational no later than January 1, 2009.

(3) The manufacturers participating in an approved plan are responsible for covering all administrative and operational costs associated with the collection, transportation, and recycling of their plan's equivalent share of covered electronic products. If costs are passed on to consumers, it must be done without any fees at the time the unwanted electronic product is delivered or collected for recycling. However, this does not prohibit collectors providing premium or curbside services from charging customers a fee for the additional collection cost of providing this service, when funding for collection provided by an independent plan or the standard plan does not fully cover the cost of that service.

(4) Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste in the state of Washington, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract pursuant to RCW 81.77.020.

(5) Manufacturers are encouraged to collaborate with electronic product retailers, certificated waste haulers, processors, recyclers, charities, and local governments within the state in the development and implementation of their plans.

NEW SECTION. Sec. 4. (1) By January 1, 2007, and annually thereafter, each manufacturer must register with the department.

(2) A manufacturer must submit to the department with each registration or annual renewal a fee to cover the administrative costs of this chapter as determined by the department under section 23 of this act.

(3) The department shall review the registration or renewal application and notify the manufacturer if their registration does not meet the requirements of this section. Within thirty days of receipt of such a notification from the department, the manufacturer must file with the department a revised registration addressing the requirements noted by the department.

(4) The registration must include the following information:

(a) The name and contact information of the manufacturer submitting the registration;

(b) The manufacturer's brand names of covered electronic products, including all brand names sold in the state in the past, all brand names currently being sold in the state, and all brand names for which the manufacturer has legal responsibility under section 10 of this act;

(c) The method or methods of sale used in the state; and

(d) Whether the registrant will be participating in the standard plan or submitting an independent plan to the department for approval.

(5) The registrant shall submit any changes to the information provided in the registration to the department within fourteen days of such change.

(6) The department shall identify, using all reasonable means, manufacturers that are in business or that are no longer in business but that have a successor in interest by examining best available return share data and other pertinent data. The department shall notify manufacturers that have been identified and for whom an address has been found of the requirements of this chapter, including registration and plan requirements under this section and section 5 of this act.

NEW SECTION. Sec. 5. (1) A manufacturer must participate in the standard plan administered by the authority, unless the manufacturer obtains department approval for an independent plan for the collection, transportation, and recycling of unwanted electronic products.

(2) An independent plan may be submitted by an individual manufacturer or by a group of manufacturers, provided that:

(a) Each independent plan represents at least a five percent return share of covered electronic products; and

(b) The manufacturer is not a new entrant or a white box manufacturer.

(3) An individual manufacturer submitting an independent plan to the department is responsible for collecting, transporting, and recycling its equivalent share of covered electronic products.

(4)(a) Manufacturers collectively submitting an independent plan are responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer.

(b) Each group of manufacturers submitting an independent plan must designate a party authorized to file the plan with the department on their behalf. A letter of certification from each of the manufacturers designating the authorized party must be submitted to the department together with the plan.

(5) Each manufacturer in the standard plan or in an independent plan retains responsibility and liability under this chapter in the event that the plan fails to meet the manufacturer's obligations under this chapter.

NEW SECTION. Sec. 6. (1) All initial independent plans and the initial standard plan required under section 5 of this act must be submitted to the department by February 1, 2008. The department shall review each independent plan and the standard plan.

(2) The authority submitting the standard plan and each authorized party submitting an independent plan to the department must pay a fee to the department to cover the costs of administering and implementing this chapter. The department shall set the fees as described under section 23 of this act.

(3) The fees in subsection (2) of this section apply to the initial plan submission and plan updates and revisions required in section 7 of this act.

(4) Within ninety days after receipt of a plan, the department shall determine whether the plan complies with this chapter. If the plan is approved, the department shall send a letter of approval. If a plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan within sixty days after receipt of the letter of disapproval.

(5) An independent plan and the standard plan must contain the following elements:

(a) Contact information for the authority or authorized party and a comprehensive list of all manufacturers participating in the plan and their contact information;

(b) A description of the collection, transportation, and recycling systems and service providers used, including a description of how the authority or authorized party will:

(i) Seek to use businesses within the state, including retailers, charities, processors, and collection and transportation services; and

(ii) Fairly compensate collectors for providing collection services;

(c) The method or methods for the reasonably convenient collection of all product types of covered electronic products in rural and urban areas throughout the state, including how the plan will provide for collection services in each county of the state and for a minimum of one collection site or alternate collection service for each city or town with a population greater than ten thousand. A collection site for a county may be the same as a collection site for a city or town in the county;

(d) A description of how the plan will provide service to small businesses, small governments, charities, and school districts in Washington;

(e) The processes and methods used to recycle covered electronic products including a description of the processing that will be used and the facility location;

(f) Documentation of audits of each processor used in the plan and compliance with processing standards established under section 25 of this act;

(g) A description of the accounting and reporting systems that will be employed to track progress toward the plan's equivalent share;

(h) A timeline describing startup, implementation, and progress towards milestones with anticipated results;

(i) A public information campaign to inform consumers about how to recycle their covered electronic products at the end of the product's life.

(6) The standard plan shall address how it will incorporate and fairly compensate registered collectors providing curbside or premium services such that they are not compensated at a lower rate for collection costs than the compensation offered other collectors providing drop-off collection sites in that geographic area.

(7) All transporters and collectors used to fulfill the requirements of this section must be registered as described in section 24 of this act.

NEW SECTION. Sec. 7. (1) An independent plan and the standard plan must be updated at least every five years and as required in (a) and (b) of this subsection.

(a) If the program fails to provide service in each county in the state or meet other plan requirements, the authority or authorized party shall submit to the department within sixty days of failing to provide service an updated plan addressing how the program will be adjusted to meet the program geographic coverage and collection service requirements established in section 9 of this act.

(b) The authority or authorized party shall notify the department of any modification to the plan. If the department determines that the authority or authorized party has significantly modified the program described in the plan, the authority or authorized party shall submit a revised plan describing the changes to the department within sixty days of notification by the department.

(2) Within sixty days after receipt of a revised plan, the department shall determine whether the revised plan complies with this chapter. If the revised plan is approved, the department shall send a letter of approval. If the revised plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan revision within sixty days after receipt of the letter of disapproval.

(3) The authority or authorized parties may buy and sell collected covered electronic products with other programs without submitting a plan revision for review.

NEW SECTION. Sec. 8. (1) A manufacturer participating in an independent plan may join the standard plan by notifying the authority and the department of its intention at least five months prior to the start of the next program year.

(2) Manufacturers may not change from one plan to another plan during a program year.

(3) A manufacturer participating in the standard plan wishing to implement or participate in an independent plan may do so by complying with rules adopted by the department under section 23 of this act.

NEW SECTION. Sec. 9. (1) A program must provide collection services for covered electronic products of all product types that are reasonably convenient and available to all citizens of the state residing within its geographic boundaries, including both rural and urban areas.

Each program must provide collection service in every county of the state. A program may provide collection services jointly with another plan or plans.

(a) For any city or town with a population of greater than ten thousand, each program shall provide a minimum of one collection site or alternate collection service described in subsection (3) of this section or a combination of sites and alternate service that together provide at least one collection opportunity for all product types. A collection site for a county may be the same as a collection site for a city or town in the county.

(b) Collection sites may include electronics recyclers and repair shops, recyclers of other commodities, reuse organizations, charities, retailers, government recycling sites, or other suitable locations.

(c) Collection sites must be staffed, open to the public at a frequency adequate to meet the needs of the area being served, and on an on-going basis.

(2) A program may limit the number of covered electronic products or covered electronic products by product type accepted per customer per day or per delivery at a collection site or service. All covered entities may use a collection site as long as the covered entities adhere to any restrictions established in the plans.

(3) A program may provide collection services in forms different than collection sites, such as curbside services, if those alternate services provide equal or better convenience to citizens and equal or increased recovery of unwanted covered electronic products.

(4) For rural areas without commercial centers or areas with widely dispersed population, a program may provide collection at the nearest commercial centers or solid waste sites, collection events, mail-back systems, or a combination of these options.

(5) For small businesses, small governments, charities, and school districts that may have large quantities of covered electronic products that cannot be handled at collection sites or curbside services, a program may provide alternate services. At a minimum, a program must provide for processing of these large quantities of covered electronic products at no charge to the small businesses, small governments, charities, and school districts.

NEW SECTION. Sec. 10. Any person acquiring a manufacturer, or who has acquired a manufacturer, shall have all responsibility for the acquired company's covered electronic products, including covered electronic products manufactured prior to the effective date of this section, unless that responsibility remains with another entity per the purchase agreement and the acquiring manufacturer provides the department with a letter from the other entity accepting responsibility for the covered electronic products. Cobranding manufacturers may negotiate with retailers for responsibility for those products and must notify the department of the results of their negotiations.

NEW SECTION. Sec. 11. (1) An independent plan and the standard plan must implement and finance an auditable, statistically significant sampling of covered electronic products entering its program every program year. The information collected must include a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, the total weight of the sample by product type, and any additional information needed to assign return share.

(2) The sampling must be conducted in the presence of the department or a third-party organization approved by the department. The department may, at its discretion, audit the methodology and the results.

(3) After the fifth program year, the department may reassess the sampling required in this section. The department may adjust the frequency at which manufacturers must implement the sampling or may adjust the frequency at which manufacturers must provide certain information from the sampling. Prior to making any changes, the department shall notify the public, including all registered manufacturers, and provide a comment period. The department shall notify all registered manufacturers of any such changes.

NEW SECTION. Sec. 12. (1) An independent plan and the standard plan must inform covered entities about where and how to reuse and recycle their covered electronic products at the end of the product's life, including providing a web site or a toll-free telephone number that gives information about the recycling program in sufficient detail to educate covered entities regarding how to return their covered electronic products for recycling.

(2) The department shall promote covered electronic product recycling by:

- (a) Posting information describing where to recycle unwanted covered electronic products on its web site;
- (b) Providing information about recycling covered electronic products through a toll-free telephone service; and
- (c) Developing and providing artwork for use in flyers and signage to retailers upon request.

(3) Local governments shall promote covered electronic product recycling, including listings of local collection sites and services, through existing educational methods typically used by each local government.

(4) A retailer who sells new covered electronic products shall provide information to consumers describing where and how to recycle covered electronic products and opportunities and locations for the convenient collection or return of the products. This requirement can be fulfilled by providing the department's toll-free telephone number and web site. Remote sellers may include the information in a visible location on their web site as fulfillment of this requirement.

(5) Manufacturers, state government, local governments, retailers, and collection sites and services shall collaborate in the development and implementation of the public information campaign.

NEW SECTION. Sec. 13. (1) The electronic products recycling account is created in the custody of the state treasurer. All payments resulting from plans not reaching their equivalent share, as described in section 22 of this act, shall be deposited into the account. Any moneys collected for manufacturer registration fees, fees associated with reviewing and approving plans and plan revisions, and penalties levied under this chapter shall be deposited into the account.

(2) Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) Moneys in the account may be used solely by the department for the purposes of fulfilling department responsibilities specified in this chapter and for expenditures to the authority and authorized parties resulting from plans exceeding their equivalent share, as described in section 22 of this act. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

NEW SECTION. Sec. 14. (1) By March 1st of the second program year and each program year thereafter, the authority and each authorized party shall file with the department an annual report for the preceding program year.

(2) The annual report must include the following information:

(a) The total weight in pounds of covered electronic products collected and recycled, by county, during the preceding program year including documentation verifying collection and processing of that material. The total weight in pounds includes orphan products. The report must also indicate and document the weight in pounds received from each nonprofit charitable organization primarily engaged in the business of reuse and resale used by the plan. The report must document the weight in pounds that were received in large quantities from small businesses, small governments, charities and school districts as described in section 9(5) of this act;

(b) The collection services provided in each county and for each city with a population over ten thousand including a list of all collection sites and services operating in the state in the prior program year and the parties who operated them;

(c) A list of processors used, the weight of covered electronic products processed by each direct processor, and a description of the processes and methods used to recycle the covered electronic products including a description of the processing and facility locations. The report must also include a list of subcontractors who further processed or recycled unwanted covered electronic products, electronic components, or electronic scrap described in section 25(1)(b) of this act, including facility locations;

(d) Other documentation as established under section 25(1)(d) of this act;

(e) Educational and promotional efforts that were undertaken;

(f) The results of sampling and sorting as required in section 11 of this act, including a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, and the total weight of the sample by product type;

(g) The list of manufacturers that are participating in the standard plan; and

(h) Any other information deemed necessary by the department.

(3) The department shall review each report within ninety days of its submission and shall notify the authority or authorized party of any need for additional information or documentation, or any deficiency in its program.

(4) All reports submitted to the department must be available to the general public through the internet. Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW 42.56.270.

NEW SECTION. Sec. 15. Nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale and that are used by a plan to collect covered electronic products shall file a report with the department by March 1st of the second program year and each program year thereafter. The report must indicate and document the weight of covered electronic products sent for recycling during the previous program year attributed to each plan that the charitable organization is participating in.

NEW SECTION. Sec. 16. (1) Beginning January 1, 2007, no person may sell or offer for sale an electronic product to any person in the state unless the electronic product is labeled with the manufacturer's brand. The label must be permanently affixed and readily visible.

(2) In-state retailers in possession of unlabeled products on January 1, 2007, may exhaust their stock through sales to the public.

NEW SECTION. Sec. 17. No person may sell or offer for sale a covered electronic product to any person in this state unless the manufacturer of the covered electronic product has filed a registration with the department under section 4 of this act and is participating in an approved plan under section 5 of this act. A person that sells or offers for sale a covered electronic product in the state shall consult the department's web site for lists of manufacturers with registrations and approved plans prior to selling a covered electronic product in the state. A person is considered to have complied with this section if on the date the product was ordered from the manufacturer or its agent, the manufacturer was listed as having registered and having an approved plan on the department's web site.

NEW SECTION. Sec. 18. (1) The department shall maintain on its web site the following information:

(a) The names of the manufacturers and the manufacturer's brands that are registered with the department under section 4 of this act;

(b) The names of the manufacturers and the manufacturer's brands that are participating in an approved plan under section 5 of this act;

(c) The names and addresses of the collectors and transporters that are listed in registrations filed with the department under section 24 of this act;

(d) The names and addresses of the processors used to fulfill the requirements of the plans;

(e) Return and equivalent shares for all manufacturers.

(2) The department shall update this web site information promptly upon receipt of a registration or a report.

NEW SECTION. Sec. 19. (1) The department shall determine the return share for each manufacturer in the standard plan or an independent plan by dividing the weight of covered electronic products identified for each manufacturer by the total weight of covered electronic products identified for all manufacturers in the standard plan or an independent plan, then multiplying the quotient by one hundred.

(2) For the first program year, the department shall determine the return share for such manufacturers using all reasonable means and based on best available information regarding return share data from other states and other pertinent data.

(3) For the second and each subsequent program year, the department shall determine the return share for such manufacturers using all reasonable means and based on the most recent sampling of covered electronic products conducted in the state under section 11 of this act.

NEW SECTION. Sec. 20. (1) The department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the return share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section.

(2)(a) By June 1st of each program year, the department shall notify each manufacturer of the manufacturer's equivalent share of covered electronic products to be applied to the previous program year. The department shall also notify each manufacturer of how its equivalent share was determined.

(b) By June 1st of each program year, the department shall bill any authorized party or authority that has not attained its plan's equivalent share as determined under section 22 of this act. The authorized party or authority shall remit payment to the department within sixty days from the billing date.

(c) By September 1st of each program year, the department shall pay any authorized party or authority that exceeded its plan's equivalent share.

(3) Plans that utilize the collection services of nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale must be given an additional five percent credit to be applied toward a plan's equivalent share for pounds that are received for recycling from those organizations. The department may adjust the percentage of credit annually.

NEW SECTION. Sec. 21. (1) By June 1, 2007, the department shall notify each manufacturer of its preliminary return share of covered electronic products for the first program year.

(2) Preliminary return share of covered electronic products must be announced annually by June 1st of each program year for the next program year.

(3) Manufacturers may challenge the preliminary return share by written petition to the department. The petition must be received by the department within thirty days of the date of publication of the preliminary return shares.

(4) The petition must contain a detailed explanation of the grounds for the challenge, an alternative calculation, and the basis for such a calculation, documentary evidence supporting the challenge, and complete contact information for requests for additional information or clarification.

(5) Sixty days after the publication of the preliminary return share, the department shall make a final decision on return share, having fully taken into consideration any and all challenges to its preliminary calculations.

(6) A written record of challenges received and a summary of the bases for the challenges, as well as the department's response, must be published at the same time as the publication of the final return share.

(7) By August 1, 2007, the department shall publish the final return shares for the first program year. By August 1st of each program year, the department shall publish the final return shares for use in the coming program year.

NEW SECTION. Sec. 22. (1) For an independent plan and the standard plan, if the total weight in pounds of covered electronic products collected during a program year is less than the plan's equivalent share of covered electronic products for that year, then the authority or authorized party shall submit to the department a payment equal to the weight in pounds of the deficit multiplied by the reasonable collection, transportation, and recycling cost for covered electronic products and an administrative fee. Moneys collected by the department must be deposited in the electronic products recycling account.

(2) For an independent plan and the standard plan, if the total weight in pounds of covered electronic products collected during a program year is more than the plan's equivalent share of covered electronic products for that year, then the department shall submit to the authority or authorized party, a payment equal to the weight in pounds of the surplus multiplied by the reasonable collection, transportation, and recycling cost for covered electronic products.

(3) For purposes of this section, the initial reasonable collection, transportation, and recycling cost for covered electronic products is forty-five cents per pound and the administrative fee is five cents per pound.

(4) Fees assessed to the authority and manufacturers participating in the standard plan must include the costs associated with the department's determination of market share as described in section 30 of this act.

(5) The department may annually adjust the reasonable collection, transportation, and recycling cost for covered electronic products and the administrative fee described in this section. Prior to making any changes in the fees described in this section, the department shall notify the public, including all registered manufacturers, and provide a comment period. The department shall notify all registered manufacturers of any changes to the reasonable collection, transportation, and recycling cost or the administrative fee by January 1st of the program year in which the change is to take place.

NEW SECTION. Sec. 23. (1) The department shall adopt rules to determine the process for manufacturers to change plans under section 8 of this act.

(2) The department shall establish annual registration and plan review fees for administering this chapter. An initial fee schedule must be established by rule and be adjusted no more often than once every two years. All fees charged must be based on factors relating to

administering this chapter and be based on a sliding scale that is representative of annual sales of covered electronic products in the state. Fees must be established in amounts to fully recover and not to exceed expenses incurred by the department to implement this chapter.

(3) The department shall establish an annual process for local governments and local communities to report their satisfaction with the services provided by plans under this chapter. This information must be used by the department in reviewing plan updates and revisions.

(4) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

NEW SECTION. Sec. 24. Each collector and transporter of covered electronic products in the state must register annually with the department. The registration must include all identification requirements for licensure in the state and the geographic area of the state that they serve. The department shall develop a single form for registration of both collectors and transporters.

NEW SECTION. Sec. 25. (1)(a) The authority and each authorized party shall ensure that each processor used directly by the authority or the authorized party to fulfill the requirements of their respective standard plan or independent plan has provided the authority or the authorized party a written statement that the processor will comply with the requirements of this section.

(b) The international export of any unwanted covered electronic products or electronic components or electronic scrap derived from such products destined for disposal or recycling that are capable of leaching lead, cadmium, mercury, hexavalent chromium, or selenium or selenium compounds in concentrations above the limits listed in 40 C.F.R. Sec. 261.24 as of the effective date of this act shall be prohibited except for exports to:

(i) Countries that are members of the organization for economic cooperation and development;

(ii) Countries that are members of the European community; or

(iii) Countries that have entered into an agreement with the United States that allows for such exports.

(c) Any unwanted electronic products or electronic components derived from such products that are capable of leaching lead, cadmium, mercury, hexavalent chromium, or selenium or selenium compounds in concentrations exceeding the levels established in 40 C.F.R. Sec. 261.24 as of the effective date of this act and exported to countries that are not members of the organization for economic cooperation and development or the European community or with whom the United States has not entered into an agreement for such export for reuse, must be tested and labeled as fully functional or needing only repairs that do not result in the replacement of components capable of leaching these substances in concentrations exceeding the levels established in 40 C.F.R. Sec. 261.24 as of the effective date of this act.

(d) The department shall establish rules to implement this section, including any requirements necessary to ensure that full compliance is adequately documented.

(2) The department shall establish by rule performance standards for environmentally sound management for processors directly used to fulfill the requirements of an independent plan or the standard plan. Performance standards may include financial assurance to ensure proper closure of facilities consistent with environmental standards.

(3) The department shall establish by rule guidelines regarding nonrecycled residual that may be properly disposed after covered electronic products have been processed.

(4) The department may audit processors that are utilized to fulfill the requirements of an independent plan or the standard plan.

(5) No plan or program required under this chapter may include the use of federal or state prison labor for processing.

NEW SECTION. Sec. 26. (1) No manufacturer may sell or offer for sale a covered electronic product in or into the state unless the manufacturer of the covered electronic product is participating in an approved plan. The department shall send a written warning to a manufacturer that does not have an approved plan or is not participating in an approved plan as required under section 5 of this act. The written warning must inform the manufacturer that it must participate in an approved plan within thirty days of the notice. Any violation after the initial written warning shall be assessed a penalty of up to ten thousand dollars for each violation.

(2) If the authority or any authorized party fails to implement their approved plan, the department must assess a penalty of up to five thousand dollars for the first violation along with notification that the authority or authorized party must implement its plan within thirty days of the violation. After thirty days, the authority or any authorized party failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation.

(3) Any person that does not comply with manufacturer registration requirements under section 4 of this act, education and outreach requirements under section 12 of this act, reporting requirements under section 14 of this act, labeling requirements under section 16 of this act, retailer responsibility requirements under section 17 of this act, collector or transporter registration requirements under section 24 of this act, or requirements under section 25 of this act, must first receive a written warning including a copy of the requirements under this chapter and thirty days to correct the violation. After thirty days, a person must be assessed a penalty of up to one thousand dollars for the first violation and up to two thousand dollars for the second and each subsequent violation.

(4) All penalties levied under this section must be deposited into the electronic products recycling account created under section 13 of this act.

(5) The department shall enforce this section.

NEW SECTION. Sec. 27. By December 31, 2012, the department shall provide a report to the appropriate committees of the legislature that includes the following information:

(1) For each of the preceding program years, the weight of covered electronic products recycled in the state by plan, by county, and in total;

(2) The performance of each plan in meeting its equivalent share, and payments received from and disbursed to each plan from the electronic products recycling account;

(3) A description of the various collection programs used to collect covered electronic products in the state;

(4) An evaluation of how the pounds per capita recycled of covered electronic products in the state compares to programs in other states;

(5) Comments received from local governments and local communities regarding satisfaction with the program, including accessibility and convenience of services provided by the plans;

(6) Recommendations on how to improve the statewide collection, transportation, and recycling system for convenient, safe, and environmentally sound recycling of electronic products; and

(7) An analysis of whether and in what amounts unwanted electronic products and electronic components and electronic scrap exported from Washington have been exported to countries that are not members of the organization for economic cooperation and development or the European union, and recommendations for addressing such exports.

NEW SECTION. Sec. 28. (1) The Washington materials management and financing authority is established as a public body corporate and politic, constituting an instrumentality of the state of Washington exercising essential governmental functions.

(2) The authority shall plan and implement a collection, transportation, and recycling program for manufacturers that have registered with the department their intent to participate in the standard program as required under section 4 of this act.

(3) Membership in the authority is comprised of registered participating manufacturers. Any manufacturer who does not qualify or is not approved to submit an independent plan, or whose independent plan has not been approved by the department, is a member of the authority.

(4) The authority shall act as a business management organization on behalf of the citizens of the state to manage financial resources and contract for services for collection, transportation, and recycling of covered electronic products.

(5) The authority's standard plan is responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer. All new entrants and white box manufacturers must participate in the standard plan.

(6) The authority shall accept into the standard program covered electronic products from any registered collector who meets the requirements of this chapter. The authority shall compensate registered collectors for the reasonable costs associated with collection, but is not required to compensate nor restricted from compensating the additional collection costs resulting from the additional convenience offered to customers through premium and curbside services.

(7) Except as specifically allowed in this chapter, the authority shall operate without using state funds or lending the credit of the state or local governments.

(8) The authority shall develop innovative approaches to improve materials management efficiency in order to ensure and increase the use of secondary material resources within the economy.

NEW SECTION. Sec. 29. (1)(a) The authority is governed by a board of directors. The board of directors is comprised of eleven participating manufacturers, appointed by the director of the department. Five board positions are reserved for representatives of the top ten brand owners by return share of covered electronic products, and six board positions are reserved for representatives of other brands, including at least one board position reserved for a manufacturer who is also a retailer selling their own private label. The return share of covered electronic products used to determine the top ten brand owners for purposes of electing the board must be determined by the department by January 1, 2007.

(b) The board must have representation from both television and computer manufacturers.

(2) The board shall select from its membership the chair of the board and such other officers as it deems appropriate.

(3) A majority of the board constitutes a quorum.

(4) The directors of the department of community, trade, and economic development and the department of ecology, and the state treasurer serve as ex officio members. The state agency directors and the state treasurer serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Ex officio designations must be made in writing and communicated to the authority director.

(5) The board shall create its own bylaws in accordance with the laws of the state of Washington.

(6) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless the notice and hearing are expressly waived in writing by the affected member.

(7) The members of the board serve without compensation but are entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter.

NEW SECTION. Sec. 30. (1) Manufacturers participating in the standard plan shall pay the authority to cover all administrative and operational costs associated with the collection, transportation, and recycling of covered electronic products within the state of Washington incurred by the standard program operated by the authority to meet the standard plan's equivalent share obligation as described in section 28(5) of this act.

(2) The authority shall assess charges on each manufacturer participating in the standard plan and collect funds from each participating manufacturer for the manufacturer's share of the costs in subsection (1) of this section. Such shares must be based on current market share as determined by the department. The department shall use statistically valid methodologies to determine market share for those participating in the standard plan. The department shall include the cost of determining current market share in the fees charged to the authority and manufacturers participating in the standard plan as described in section 23(4) of this act. The authority's assignment of shares to manufacturers participating in the standard plan may not include nor be based on electronic products imported through the state and subsequently exported outside the state. Charges assessed under this section must not be formulated in such a way as to create incentives to divert imported electronic products to ports or distribution centers in other states. The authority shall adjust the charges to manufacturers participating in the standard plan as necessary in order to ensure that all costs associated with the identified activities are covered.

(3) Any manufacturer participating in the standard plan may appeal the determination of current market share by written petition to the director of the department. The petition must be received by the director of the department within thirty days of the publication of market share and must contain a detailed explanation and documentary evidence of the grounds for the appeal. Within sixty days of the publication of market

share, the director of the department or the director's designee, shall review all appeals and shall make a final determination of market share having fully taken into consideration any and all challenges to its initial determination.

(4) Nothing in this section authorizes the authority to assess fees or levy taxes directly on the sale or possession of electronic products.

(5) If a manufacturer has not met its financial obligations as determined by the authority under this section, the authority shall notify the department that the manufacturer is no longer participating in the standard plan.

(6) The authority shall submit its plan for assessing charges on manufacturers participating in the standard plan to the department for review and approval along with the standard plan as provided in section 6 of this act.

(7) Any manufacturer participating in the standard plan may appeal an assessment of charges levied by the authority under this section to the director of the department. The director of the department or the director's designee shall review all appeals and shall reverse any assessments of charges if the director finds that the authority's determination was an arbitrary administrative decision or an abuse of administrative discretion. If the director of the department reverses an assessment of charges, the authority must redetermine the assessment.

NEW SECTION. Sec. 31. (1) The authority shall use any funds legally available to it for any purpose specifically authorized by this chapter to:

(a) Contract and pay for collecting, transporting, and recycling of covered electronic products and education and other services as identified in the standard plan;

(b) Pay for the expenses of the authority including, but not limited to, salaries, benefits, operating costs and consumable supplies, equipment, office space, and other expenses related to the costs associated with operating the authority;

(c) Pay into the electronic products recycling account amounts billed by the department to the authority for any deficit in reaching the standard plan's equivalent share as required under section 22 of this act; and

(d) Pay the department for the fees for submitting the standard plan and any plan revisions.

(2) If practicable, the authority shall avoid creating new infrastructure already available through private industry in the state.

(3) The authority may not receive an appropriation of state funds, other than:

(a) Funds that may be provided as a one-time loan to cover administrative costs associated with start up of the authority, such as electing the board of directors and conducting the public hearing for the operating plan, provided that no appropriated funds may be used to pay for collection, transportation, or recycling services; and

(b) Funds received from the department from the electronic products recycling account for exceeding the standard plan's equivalent share.

(4) The authority may receive additional sources of funding that do not obligate the state to secure debt.

(5) All funds collected by the authority under this chapter, including interest, dividends, and other profits, are and must remain under the complete control of the authority and its board of directors, be fully available to achieve the intent of this chapter, and be used for the sole purpose of achieving the intent of this chapter.

NEW SECTION. Sec. 32. (1) The board shall adopt a general operating plan of procedures for the authority. The board shall also adopt operating procedures for collecting funds from participating covered electronic manufacturers and for providing funding for contracted services. These operating procedures must be adopted by resolution prior to the authority operating the applicable programs.

(2) The general operating plan must include, but is not limited to: (a) Appropriate minimum reserve requirements to secure the authority's financial stability; and (b) appropriate standards for contracting for services.

(3) The board shall conduct at least one public hearing on the general operating plan prior to its adoption. The authority shall provide and make public a written response to all comments received by the public.

(4) The general operating plan must be adopted by resolution of the board. The board may periodically update the general operating plan as necessary, but must update the plan no less than once every four years. The general operating plan or updated plan must include a report on authority activities conducted since the commencement of authority operation or since the last reported general operating plan, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the general operating plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the general operating plan.

NEW SECTION. Sec. 33. (1) The authority shall employ a chief executive officer, appointed by the board, and a chief financial officer, as well as professional, technical, and support staff, appointed by the chief executive officer, necessary to carry out its duties.

(2) Employees of the authority are not classified employees of the state. Employees of the authority are exempt from state service rules and may receive compensation only from the authority at rates competitive with state service.

(3) The authority may retain its own legal counsel.

(4) The departments of ecology and community, trade, and economic development shall provide staff to assist in the creation of the authority. If requested by the authority, the departments of ecology and community, trade, and economic development shall also provide start-up support staff to the authority for its first twelve months of operation, or part thereof, to assist in the quick establishment of the authority. Staff expenses must be paid through funds collected by the authority and must be reimbursed to the departments from the authority's financial resources within the first twenty-four months of operation.

(5) In addition to accomplishing the activities specifically authorized in this chapter, the authority may:

(a) Maintain an office or offices;

(b) Make and execute all manner of contracts, agreements, and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;

(c) Make expenditures as appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter;

- (d) Give assistance to private and public bodies contracted to provide collection, transportation, and recycling services by providing information, guidelines, forms, and procedures for implementing their programs;
- (e) Delegate, through contract, any of its powers and duties if consistent with the purposes of this chapter; and
- (f) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

NEW SECTION. Sec. 34. This chapter is void if a federal law, or a combination of federal laws, takes effect that establishes a national program for the collection and recycling of covered electronic products that substantially meets the intent of this chapter, including the creation of a financing mechanism for collection, transportation, and recycling of all covered electronic products from households, small businesses, school districts, small governments, and charities in the United States.

NEW SECTION. Sec. 35. A new section is added to chapter 43.19 RCW to read as follows:

- (1) The department of general administration shall establish purchasing and procurement policies that establish a preference for electronic products that meet environmental performance standards relating to the reduction or elimination of hazardous materials.
- (2) The department of general administration shall ensure that their surplus electronic products, other than those sold individually to private citizens, are managed only by registered transporters and by processors meeting the requirements of section 25 of this act.
- (3) The department of general administration shall ensure that their surplus electronic products are directed to legal secondary materials markets by requiring a chain of custody record that documents to whom the products were initially delivered through to the end use manufacturer.

Sec. 36. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

- (1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;
- (3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;
- (4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;
- (5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;
- (6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;
- (7) Financial and valuable trade information under RCW 51.36.120;
- (8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;
- (9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;
- (10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;
- (11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; ~~(and)~~
- (12)(a) When supplied to and in the records of the department of community, trade, and economic development:
 - (i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and
 - (ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;
- (b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;
- (c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;
- (d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter; and

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.-- RCW (sections 1 through 34 of this act) to implement chapter 70.-- RCW (sections 1 through 34 of this act).

NEW SECTION. Sec. 37. This act must be liberally construed to carry out its purposes and objectives.

NEW SECTION. Sec. 38. 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. 39. This act takes effect July 1, 2006.

NEW SECTION. Sec. 40. Sections 1 through 34 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 2 of the title, after "opportunities;" strike the remainder of the title and insert "amending RCW 42.56.270; adding a new section to chapter 43.19 RCW; adding a new chapter to Title 70 RCW; creating a new section; prescribing penalties; and providing an effective date."

Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Blake; Dickerson; Hunt and Kagi.

MINORITY recommendation: Do not pass. Signed by Representatives Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Chandler and Orcutt.

Referred to Committee on Appropriations.

February 22, 2006

ESB 6433 Prime Sponsor, Senator Kastama: Establishing the emergency management, preparedness, and assistance account.
Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that recent events, including the 9/11 terrorist acts, the tsunami in southeast Asia, Hurricanes Katrina and Rita in the gulf coast, outbreaks of avian flu, and the earthquake in Pakistan, have demonstrated the need for a coordinated, comprehensive all-hazards disaster plan involving citizens, industry, local governments, and the state. Washington state's topography, geography, location, and strategic and economic interests place the state at particular risk from both natural disasters and man-made disasters. In response, Washington state and its local governments have implemented nationally recognized all-hazards emergency management and disaster response plans. However, recent studies have revealed the lack of a secure funding source for resolving impediments to the ability of state and local programs to integrate and coordinate comprehensive disaster preparedness. In addition, local programs suffer disparities in funding and expertise, leaving troublesome gaps in a well-coordinated statewide all-hazards emergency management system.

Recognizing that all disasters are local disasters, the legislature therefore intends to strengthen state and local emergency response, mitigation, preparation, and coordination by establishing a stable source of funding with the intent that Washington state become the nationally recognized leader in emergency management. The funding will be dedicated to the development and coordination of state and local government emergency management programs by supporting joint training exercises, citizen and industry coordination with emergency management efforts, public education, and relationship building among local and state emergency management officials.

NEW SECTION. Sec. 2. The emergency management, preparedness, and assistance account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in section 3 of this act.

NEW SECTION. Sec. 3. (1)(a) The department must use twenty percent of the funds appropriated from the emergency management, preparedness, and assistance account for the department's administration of this section, and to: Fund the department's assessment required by section 4 of this act; fund state agency activities, including military department activities, that develop and coordinate comprehensive emergency management plans; train elected and appointed state officials on state laws, disaster command and response structures, and the roles and responsibilities of officials before, during, and after a disaster; administer periodic joint emergency management training exercises involving the military department and other state agencies; and implement state agency projects that will strengthen emergency response, mitigation, preparation, and coordination.

(b) From the remaining funds, the department shall pay for the study required in section 5 of this act, and the remainder must be allocated for grants to regional agencies, local governments, tribal governments, regional incident management teams, and private organizations to: Develop and coordinate comprehensive emergency management plans; train elected and appointed officials on state laws, ordinances, disaster command and response structures, and the roles and responsibilities of officials before, during, and after a disaster; administer periodic joint

emergency management training exercises; and implement projects that will strengthen emergency response, mitigation, preparation, and coordination.

(2) Projects funded under this section must include, but need not be limited to, projects that will promote statewide and neighborhood level public education on disaster preparedness and recovery issues, situate all weather radios in public buildings, enhance coordination of public sector and private sector relief efforts, and improve the training and operations capabilities of agencies assigned lead or support responsibilities in the state comprehensive emergency management plan.

(3) Grant funding may also be used as seed money to establish a dedicated, full-time emergency management director in every county that does not have such a director as of the effective date of this section.

(4) The department must establish criteria and procedures for competitive allocation of these funds by rule. At a minimum, the rules must:

(a) Establish preferential funding for projects and exercises addressing needs and recommendations identified by the department in the assessment conducted under section 4 of this act;

(b) Specify a formula that establishes a base grant allocation and weighted factors for funds to be allocated over the base grant amount for regional agencies, local governments, tribal governments, regional incident management teams, and private organizations with existing emergency management and preparedness programs that are located in a part of the state where the risk of exposure to disasters is deemed by the department to be particularly acute;

(c) Specify match requirements; and

(d) Include requirements that, at a minimum, a local emergency management agency have: A comprehensive emergency management plan or be a member of a joint local organization for emergency management; and a local director who works at least forty hours a week in that capacity, or have designated by ordinance or resolution an emergency management coordinator who works at least fifteen hours a week in that capacity.

(5) No more than five percent of any award made under subsection (1)(b) of this section may be used for administrative expenses.

(6) The distribution formula provided in this section may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds.

(7) Local governments and other recipients of funds under this section may not use the funds to supplant existing funding.

NEW SECTION. Sec. 4. Beginning in January 2008 and biennially thereafter, the department must conduct in conjunction with the emergency management council a strategic assessment of, and issue a report on, the ability of state, local, and tribal emergency management organizations to effectively provide for all phases of comprehensive emergency management. The assessment must:

(1) Evaluate state, local, and tribal emergency management capabilities and needs;

(2) Evaluate the ability of state, local, and tribal emergency management organizations to provide emergency management mitigation, preparedness, response, and recovery;

(3) Evaluate the effectiveness of the emergency management structure at the state, local, and tribal levels;

(4) Provide findings and make recommendations that increase the ability of state, local, and tribal emergency management organizations to meet current and future risks; and

(5) Detail where and for what purpose funds under section 3(1)(b) of this act have been distributed.

NEW SECTION. Sec. 5. The joint legislative audit and review committee must study and review the performance of programs implemented under this act. The committee must examine at least the following factors: The number and type of joint exercises conducted under section 3 of this act; the number of programs receiving grant money and the status of those programs; the coordination of comprehensive emergency management plans between state and local jurisdictions; the number of training programs administered; the number of comprehensive emergency management or safety plans created using funds distributed under section 3 of this act; and the number of emergency preparedness officials created and trained with funds distributed under this act. The committee must provide a final report on this review by December 2008. Funds from the emergency management, preparedness, and assistance account may be provided to the committee for the purposes of conducting the study.

NEW SECTION. Sec. 6. Sections 2 through 4 of this act are each added to chapter 38.52 RCW."

Correct the title.

Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt; McDermott; Miloscia; Schindler and Sump.

Referred to Committee on Appropriations.

February 21, 2006

SSB 6439 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Concerning coastal crab fisheries licenses. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.70.350 and 1994 c 260 s 10 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses ~~((and Dungeness crab-coastal class B fishery licenses))~~:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet ~~((nor may the holder))~~; or
(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length ~~((of the currently designated vessel))~~ designated on the license on the effective date of this section by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to the effective date of this section;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any two consecutive Washington state coastal crab seasons unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the ~~((currently))~~ designated vessel on the effective date of this section, the department may change the vessel designation no more than once ~~((in any five consecutive Washington state coastal crab seasons))~~ on or after the effective date of this section, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by ~~((United States coast guard documentation or))~~ marine survey~~((s))~~ or ~~((for vessels that do not require United States coast guard documentation,))~~ by manufacturer's specifications ~~((or marine survey))~~.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives."

Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler; Dickerson; Hunt; Kagi and Orcutt.

Passed to Committee on Rules for second reading.

February 21, 2006

SSB 6473 Prime Sponsor, Senate Committee On Water, Energy & Environment: Eliminating the requirement that telecommunications companies file price lists. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hankins; Hudgins; Nixon; P. Sullivan; Sump and Takko.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6493 Prime Sponsor, Senator Kline: Revising the jurisdiction of drug courts. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Kirby; Springer; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Serben.

Passed to Committee on Rules for second reading.

February 21, 2006

ESSB 6508 Prime Sponsor, Senate Committee On Water, Energy & Environment: Developing minimum renewable fuel content requirements and fuel quality standards in an alternative fuels market. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that it is in the public interest to establish a market for alternative fuels in Washington. By requiring a growing percentage of our fuel supply to be renewable biofuel that meets appropriate fuel quality standards, we will reduce our dependence on imports of foreign oil, improve the health and quality of life for Washingtonians, and stimulate the creation of a new industry that benefits our farmers and rural communities. The legislature finds that it is in the public interest for the state to play a central role in spurring the market by purchasing an increasing amount of alternative fuels. The legislature agrees with national leaders that we must act now, and that the more than two years before the requirements of this act take effect is sufficient time for feedstock and fuel providers to prepare for successful implementation.

NEW SECTION. Sec. 2. A new section is added to chapter 19.112 RCW to read as follows:

(1) Special fuel licensees under chapter 82.38 RCW, other than international fuel tax agreement licensees and special fuel distributors, shall provide evidence to the department of licensing that at least two percent of total annual diesel fuel sales are biodiesel fuel sales, six months after the director determines that feedstock grown in Washington state can satisfy a two-percent requirement, or the date November 30, 2008, has passed.

(2) Special fuel licensees under chapter 82.38 RCW, other than international fuel tax agreement licensees and special fuel distributors, shall provide evidence to the department of licensing that at least five percent of total annual diesel fuel sales are biodiesel fuel sales, six months after the director determines that both in-state oil seed crushing capacity and feedstock grown in Washington state can satisfy a three-percent requirement.

(3) For the purposes of this chapter, "biodiesel fuel" has the meaning provided in RCW 82.29A.135.

(4) The director and the director of licensing shall adopt rules for enforcing and carrying out the purposes of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 19.112 RCW to read as follows:

(1) Beginning December 1, 2008, all gasoline sold or offered for sale in Washington shall contain at least two percent denatured ethanol by volume.

(2) If the director of ecology determines that ethanol content greater than two percent will not jeopardize continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution in Washington and the director of agriculture determines that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels, the director of agriculture may require by rule that all gasoline sold or offered for sale in Washington shall contain up to a maximum of ten percent of denatured ethanol by volume. The director of agriculture shall allow six months to meet the new minimum content requirement under this subsection.

(3) The director of agriculture shall adopt rules for enforcing and carrying out the purposes of this section.

Sec. 4. RCW 19.112.020 and 1990 c 102 s 3 are each amended to read as follows:

(1) This chapter shall be administered by the director or his or her authorized agent. ((For the purpose of administering this chapter,))

(2) The director, by rule, shall adopt standards for motor fuel and for biodiesel fuel or fuel blended with biodiesel fuel by adopting all or part of the standards set forth in the Annual Book of ASTM Standards and supplements ((hereto, and revisions thereof, are adopted)), amendments, or revisions thereof, all or part of the standards set forth in the National Institute of Standards and Technology (NIST) Handbook 130, Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality rules, and any supplements, amendments, or revisions thereof, together with applicable federal environmental protection agency standards. If a conflict exists between federal environmental protection agency standards, ASTM standards, or ((state)) NIST standards, for purposes of uniformity, federal environmental protection agency standards shall take precedence over ASTM and NIST standards. ((Any state standards adopted must be consistent with federal environmental protection agency standards and ASTM standards not in conflict with federal environmental protection agency standards.)) The department of agriculture shall not exceed ASTM standards for diesel.

(3) The director may establish a fuel testing laboratory or may contract with a laboratory for testing. The director may also adopt rules on false and misleading advertising, labeling and posting of prices, and the standards for, and identity of, motor fuels. The director shall require fuel pumps offering biodiesel and ethanol blends to be identified by a label stating the percentage of biodiesel or ethanol.

NEW SECTION. Sec. 5. A new section is added to chapter 19.112 RCW to read as follows:

The director shall establish a biofuels advisory committee to advise the director on implementing or suspending the minimum renewable fuel content requirements. The committee shall advise the director on applicability to all users; logistical, technical, and economic issues of implementation, including the potential for credit trading, compliance and enforcement provisions, and tracking and reporting requirements; and how the use of renewable fuel blends greater than two percent for ethanol could achieve the goals of this act. The director shall make recommendations to the legislature and the governor on the implementation or suspension of this act by September 1, 2007.

Sec. 6. RCW 43.19.642 and 2003 c 17 s 2 are each amended to read as follows:

(1) All state agencies are encouraged to use a fuel blend of twenty percent biodiesel and eighty percent petroleum diesel for use in diesel-powered vehicles and equipment.

(2) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of

a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(3) Effective June 1, 2009, all state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(4) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file quarterly reports with the department of general administration documenting any problems encountered with the use of the fuel and a description of how the problems were resolved.

NEW SECTION. Sec. 7. A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration must assist state agencies seeking to meet the biodiesel fuel mandates in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years to secure a sufficient and stable supply of biodiesel for use by state agencies.

(2) The department shall compile and analyze the reports submitted under RCW 43.19.642(4) and report its findings and recommendations to the governor and legislature within thirty days from the end of each reporting period. The governor shall consider these reports in determining whether to temporarily suspend minimum renewable fuel content requirements as authorized under section 8 of this act.

NEW SECTION. Sec. 8. A new section is added to chapter 19.112 RCW to read as follows:

The governor, by executive order, may suspend all or portions of the minimum renewable fuel content requirements in section 2 or 3 of this act, or both, based on a determination that such requirements are temporarily technically or economically infeasible.

NEW SECTION. Sec. 9. A new section is added to chapter 19.112 RCW to read as follows:

(1) By November 30, 2008, the director shall determine whether the state's diesel fuel supply is comprised of at least ten percent biodiesel made predominantly from Washington feedstock, and whether the goals of section 2 of this act have been achieved.

(2) By November 30, 2008, the director shall determine whether the state's gasoline fuel supply is comprised of at least twenty percent ethanol made predominantly from Washington feedstock, without jeopardizing continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution, and whether the goals of section 3 of this act have been achieved.

(3) By December 1, 2008, the director shall notify the governor and the legislature of the findings in subsections (1) and (2) of this section.

(4) If the findings from the director indicate that the goals of subsections (1) and (2) of this section, or both, have been achieved, then the governor shall issue an executive order declaring that section 2 or 3 of this act, or both, are no longer applicable.

NEW SECTION. Sec. 10. A new section is added to chapter 19.112 RCW to read as follows:

(1) If either or both of the goals in section 9 of this act are not achieved by November 30, 2008, the director shall monitor the state's diesel and gasoline fuel supply until such time as either or both of the goals are met.

(2) The director shall report to the governor and the legislature by November 30th of the year in which a goal is met.

(3) Following notification under this section that a goal has been met, the governor shall prepare executive request legislation repealing section 2 or 3 of this act, or both, as applicable.

NEW SECTION. Sec. 11. A new section is added to chapter 19.112 RCW to read as follows:

For the purposes of this chapter, "diesel" means special fuel as defined in RCW 82.38.020, and dyed special fuel as defined in 26 C.F.R. Sec. 48.4082-1T as of October 24, 2005.

NEW SECTION. Sec. 12. A new section is added to chapter 19.112 RCW to read as follows:

The director of the department of licensing shall establish rules to ensure that information submitted as required by this act can be combined or aggregated for reporting purposes by the department of licensing without releasing identifying individual company information."

Correct the title.

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Ericks; Hudgins; P. Sullivan; Takko and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Haler, Assistant Ranking Minority Member; Hankins and Nixon.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6528 Prime Sponsor, Senate Committee On Transportation: Permitting roadside tire chain businesses. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 1, line 19, after "traffic." insert "In issuing the permits, the department shall insure that the maximum practicable number of different individuals and entities receive permits, and that no one entity, to the extent practicable, is the sole permit holder for a particular location."

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6545 Prime Sponsor, Senator Sheldon: Removing the minimum height requirement for the attachment of vehicle license plates. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6552 Prime Sponsor, Senate Committee On Transportation: Modifying commercial driver's license provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 7, beginning on line 11, after "(1)" strike all material through line 14 and insert "Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter ((by April 1, 1992. The director shall establish a program to convert all qualified commercial motor vehicle drivers by that date. After April 1, 1992,))₂"

On page 8, after line 18, insert the following:

"(3) The department shall to the extent possible enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states."

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6568 Prime Sponsor, Senator Regala: Modifying animal fighting provisions. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

On page 1, line 12, after "Knowingly" strike "or with the intent to,"

On page 1, line 13, after "spectator" insert "of"

On page 1, line 14, after "furtherance of" insert "1"

Signed by Representatives Lantz, Chairman; Flannigan, Vice Chairman; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

February 21, 2006

SSB 6570 Prime Sponsor, Senate Committee On Financial Institutions, Housing & Consumer Protection: Requiring lenders to consider retail installment contracts for the purchase of motor vehicles. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse; O'Brien; Santos; Serben; Simpson; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6576 Prime Sponsor, Senator Hargrove: Clarifying procedures for forwarding sex offender information. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6579 Prime Sponsor, Senate Committee On Human Services & Corrections: Requiring parents be notified when a juvenile is taken into custody. Reported by Committee on Juvenile Justice & Family Law

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chairman; Moeller, Vice Chairman; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse; Lovick and Roberts.

Passed to Committee on Rules for second reading.

February 22, 2006

ESSB 6580 Prime Sponsor, Senate Committee On Human Services & Corrections: Creating work groups to evaluate issues relating to juvenile sex offenders and kidnapping offenders in schools. Reported by Committee on Juvenile Justice & Family Law

MAJORITY recommendation: Do pass. Signed by Representatives Dickerson, Chairman; Moeller, Vice Chairman; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse; Lovick and Roberts.

Passed to Committee on Rules for second reading.

February 22, 2006

ESB 6606 Prime Sponsor, Senator Fraser: Requiring standards for educational interpreters for students who are deaf or hard of hearing. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis; Haigh; Hunter; McDermott; Priest; Santos; Shabro; Tom and Wallace.

Passed to Committee on Rules for second reading.

February 21, 2006

SB 6637 Prime Sponsor, Senator Keiser: Concerning qualifications for adult family home providers. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.128.120 and 2002 c 223 s 1 are each amended to read as follows:

Each adult family home provider and each resident manager shall have the following minimum qualifications, except that only providers are required to meet the provisions of subsection (10) of this section:

- (1) Twenty-one years of age or older;
- (2) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, a United States high school diploma or general educational development (GED) certificate or any English or translated government documentation of the following:
 - (a) Successful completion of government-approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction over twelve years or no less than twelve thousand hours of instruction;
 - (b) A foreign college, foreign university, or United States community college two-year diploma;
 - (c) Admission to, or completion of coursework at, a foreign university or college for which credit was granted;
 - (d) Admission to, or completion of coursework at, a United States college or university for which credits were awarded;
 - (e) Admission to, or completion of postgraduate coursework at, a United States college or university for which credits were awarded;
 - (f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education preparation was required;
- (3) Good moral and responsible character and reputation;
- (4) Literacy in the English language, however, a person not literate in the English language may meet the requirements of this subsection by assuring that there is a person on staff and available who is able to communicate or make provisions for communicating with the resident in his or her primary language and capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations and be able to read and understand resident care plans;
- (5) Management and administrative ability to carry out the requirements of this chapter;
- (6) Satisfactory completion of department-approved basic training and continuing education training as specified by the department in rule, based on recommendations of the community long-term care training and education steering committee and working in collaboration with providers, consumers, caregivers, advocates, family members, educators, and other interested parties in the rule-making process;
- (7) Satisfactory completion of department-approved, or equivalent, special care training before a provider may provide special care services to a resident;
- (8) Not been convicted of any crime listed in RCW 43.43.830 and 43.43.842; ~~((and))~~
- (9) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, at least three hundred twenty hours of successful, direct caregiving experience obtained after age eighteen to vulnerable adults in a licensed or contracted setting prior to operating or managing an adult family home; and
- (10) Prior to being granted a license, providers applying after January 1, 2007, must complete a department-approved forty-eight hour adult family home administration and business planning class. The department shall promote and prioritize bilingual capabilities within available resources and when materials are available for this purpose."

On page 1, line 1 of the title, after "providers," strike the remainder of the title and insert "and amending RCW 70.128.120."

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Condotta; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

Passed to Committee on Rules for second reading.

February 21, 2006

ESSB 6646 Prime Sponsor, Senate Committee On Water, Energy & Environment: Regarding outdoor burning in areas of small towns and cities. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler and Orcutt.

MINORITY recommendation: Do not pass. Signed by Representatives Dickerson; Hunt and Kagi.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6674 Prime Sponsor, Senator Oke: Requiring that funds collected from construction of the second Tacoma Narrows bridge be deposited in the Tacoma Narrows toll bridge account. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6762 Prime Sponsor, Senator Mulliken: Limiting the posting of hazards to motorcycles to paved roadways. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 21, 2006

ESSB 6776 Prime Sponsor, Senate Committee On Water, Energy & Environment: Prohibiting the unauthorized sale of telephone records. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hankins; Hudgins; Nixon; P. Sullivan; Sump and Takko.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6791 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Concerning liquor licenses issued to entities providing concession services on ferries. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6806 Prime Sponsor, Senate Committee On Judiciary: Establishing the domestic violence hope card study committee. Reported by Committee on Juvenile Justice & Family Law

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to study the advisability of providing to all recipients of protection orders, who are victims of domestic violence, wallet-size cards that would provide to law enforcement all information necessary to enforce the protection order.

NEW SECTION. Sec. 2. (1) The domestic violence hope card study committee is established to review the advisability of providing wallet-size cards bearing information regarding protection orders to victims of domestic violence within Washington state. The committee shall collaborate with the Washington state gender and justice commission and shall be composed of:

- (a) Two senators, one from each caucus in the senate;
- (b) Two representatives, one from each caucus in the house of representatives;
- (c) One representative of the Washington state attorney general's office;
- (d) One police chief appointed by the Washington association of sheriffs and police chiefs;

- (e) One elected sheriff appointed by the Washington association of sheriffs and police chiefs;
- (f) One representative of the Washington state patrol;
- (g) One representative of the administrative office of the courts;
- (h) One representative of a tribal government appointed by the governor;
- (i) One representative of the Washington association of criminal defense lawyers;
- (j) One representative of a statewide domestic violence advocacy group appointed by the governor;
- (k) One representative who is an advocate for domestic violence victims on tribal lands appointed by the governor;
- (l) One representative of the office of crime victims advocacy;
- (m) One representative of the Washington association of prosecuting attorneys; and
- (n) One representative of the Washington state association of county clerks.

(2) The committee shall review and analyze hope card programs operating in Washington state and other states. Specifically, the committee shall review:

(a) The practicality of requiring the statewide distribution of wallet-size cards to victims of domestic violence that document the existence of a protection order and provide identifying information regarding the respondent, including a photograph, and contents of a protection order in addition to contact information for the victim to utilize the court system, gain access to domestic violence services, and contact law enforcement;

(b) The information required to be provided to victims of domestic violence under current law;

(c) Whether victims of domestic violence are receiving this information;

(d) Whether any additional information should be included on the cards provided to domestic violence victims;

(e) Costs, administrative, and capital equipment issues involved with the implementation of such a program;

(f) How nonstate funds could be utilized to pay for the costs involved in implementation of such a program;

(g) How such a program could be implemented statewide;

(h) Confidentiality, privacy, and safety concerns that may arise in the implementation of such a program; and

(i) Any other issues the committee finds relevant to the distribution of hope cards to victims of domestic violence.

(3) Staff support shall be provided by the office of crime victims advocacy, senate committee services, and the office of program research.

(4) Legislative members of the study committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) A committee report, containing findings and proposed legislation, if any, shall be delivered to the full legislature not later than December 31, 2006.

NEW SECTION. Sec. 3. This act expires June 30, 2007."

Correct the title.

Signed by Representatives Dickerson, Chairman; Moeller, Vice Chairman; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse; Lovick and Roberts.

Passed to Committee on Rules for second reading.

February 22, 2006

2SSB 6823 Prime Sponsor, Senate Committee On Ways & Means: Modifying provisions relating to the distribution of beer and wine. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6840 Prime Sponsor, Senate Committee On Water, Energy & Environment: Modifying energy efficiency provisions. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.260.020 and 2005 c 298 s 2 are each amended to read as follows:

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

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and (b) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.

(5)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

(6) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(7) "Department" means the department of community, trade, and economic development.

(8) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(9) ("Illuminated exit sign" means an internally illuminated sign that is designed to be permanently fixed in place to identify a building exit and consists of an electrically powered integral light source that illuminates the legend "EXIT" and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

~~(10)(a) "Low-voltage dry-type distribution transformer" means a distribution transformer that: (i) Has an input voltage of 600 volts or less; (ii) is air cooled; (iii) does not use oil as a coolant; and (iv) is rated for operation at a frequency of 60 hertz.~~

~~(b) "Low-voltage dry-type transformer" does not include: (i) Transformers with multiple voltage taps, with the highest voltage tap equaling at least twenty percent more than the lowest voltage tap; or (ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications.~~

~~(11) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.~~

~~((12)) (10) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.~~

~~((13)) (11) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.~~

~~((14)) (12) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.~~

~~((15)) (13) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.~~

~~((16)) (14)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.~~

~~(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.~~

~~((17)) (15)(a) "Single-voltage external AC to DC power supply" means a device that: (i) Is designed to convert line voltage alternating current input into lower voltage direct current output; (ii) is able to convert to only one DC output voltage at a time; (iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load; (iv) is contained within a separate physical enclosure from the end-use product; (v) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (vi) has a nameplate output power less than or equal to 250 watts.~~

~~(b) "Single-voltage external AC to DC power supply" does not include: (i) Products with batteries or battery packs that physically attach directly to the power supply unit; (ii) products with a battery chemistry or type selector switch and indicator light; or (iii) products with a battery chemistry or type selector switch and a state of charge meter.~~

~~((18)) (16) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into one of the following categories:~~

~~(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;~~

~~(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.~~

~~((19))~~ "Torchiere" means a portable electric lighting fixture with a reflective bowl that directs light upward onto a ceiling so as to produce indirect illumination on the surfaces below. "Torchiere" may include downward directed lamps in addition to the upward, indirect illumination.

~~(20)~~ "Traffic signal module" means a standard (a) 8-inch or 200 mm or (b) 12-inch or 300 mm traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation.

~~(21))~~ (17) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

~~((22))~~ (18)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner.

Sec. 2. RCW 19.260.030 and 2005 c 298 s 3 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state: (a) Automatic commercial ice cube machines; (b) commercial clothes washers; (c) commercial prerinse spray valves; (d) commercial refrigerators and freezers; (e) ~~(illuminated exit signs; (f) low-voltage dry-type distribution transformers; (g))~~ metal halide lamp fixtures; ~~((h))~~ ~~(f)~~ single-voltage external AC to DC power supplies; ~~((i))~~ ~~(g)~~ state-regulated incandescent reflector lamps; ~~((j))~~ ~~(i)~~ torchieres; ~~(k)~~ ~~(j)~~ traffic signal modules; and ~~((h))~~ ~~(h)~~ unit heaters. This chapter applies equally to products whether they are sold, offered for sale, or installed as a stand-alone product or as a component of another product.

(2) This chapter does not apply to (a) new products manufactured in the state and sold outside the state, (b) new products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state, (c) products installed in mobile manufactured homes at the time of construction~~((f))~~, or (d) products designed expressly for installation and use in recreational vehicles.

Sec. 3. RCW 19.260.040 and 2005 c 298 s 4 are each amended to read as follows:

The legislature establishes the following minimum efficiency standards for the types of new products set forth in RCW 19.260.030.

(1)(a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condenser water use (gallons/100 lbs. ice)
Ice-making head	water	<500	7.80 - .0055H	200 - .022H
		> =500<1436	5.58 - .0011H	200 - .022H
		> =1436	4.0	200 - .022H
Ice-making head	air	450	10.26 - .0086H	Not applicable
		> =450	6.89 - .0011H	Not applicable
Remote condensing but not remote compressor	air	<1000	8.85 - .0038	Not applicable
		> =1000	5.10	Not applicable
Remote condensing and remote compressor	air	<934	8.85 - .0038H	Not applicable
		> =934	5.3	Not applicable
Self-contained models	water	<200	11.40 - .0190H	191 - .0315H
		> =200	7.60	191 - .0315H
Self-contained models	air	<175	18.0 - .0469H	Not applicable
		> =175	9.80	Not applicable

Where H = harvest rate in pounds per twenty-four hours which must be reported within 5% of the tested value.

"Maximum water use" applies only to water used for the condenser.

(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with ARI 810-2003 test method as published by the air-conditioning and refrigeration institute. Ice-making heads include all automatic commercial ice cube machines that are not split system ice makers or self-contained models as defined in ARI 810-2003.

(2) Commercial clothes washers must have a minimum modified energy factor of 1.26. For the purposes of this section, capacity and modified energy factor are defined and measured in accordance with the current federal test method for clothes washers as found at 10 C.F.R. Sec. 430.23.

(3) Commercial prerinse spray valves must have a flow rate equal to or less than 1.6 gallons per minute when measured in accordance with the American society for testing and materials' "Standard Test Method for Prerinse Spray Valves," ASTM F2324-03.

(4)(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators	Solid	0.10V + 2.04
	Transparent	0.12V + 3.34
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are "pulldown" refrigerators	Transparent	.126V + 3.51
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers	Solid	0.40V + 1.38
	Transparent	0.75V + 4.10
Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher	Solid	0.27AV - 0.71

kWh = kilowatt hours

V = total volume (ft³)

AV = adjusted volume = [1.63 x freezer volume (ft³)] + refrigerator volume (ft³)

(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees F and cool those beverages to a stable temperature of 38 degrees F within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air-conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures.

Product or compartment type	Integrated average product temperature in degrees Fahrenheit
Refrigerator	38 ± 2
Freezer	0 ± 2

~~(5) (Illuminated exit signs must have an input power demand of five watts or less per illuminated face. For the purposes of this section, input power demand is measured in accordance with the United States environmental protection agency's energy star exit sign program's conditions for testing, version 3.0. Illuminated exit signs must meet all applicable building and safety codes.~~

(6)(a) Low-voltage dry-type distribution transformers shall have efficiencies not less than the applicable values in the following table when tested at thirty-five percent of the rated output power:

Single Phase			Three Phase		
Rated power output in kVa	Minimum efficiency %		Rated power output in kVa	Minimum efficiency %	
≥ 15 ————— <25	97.7		≥ 15 ————— <30	97.0	
≥ 25 ————— <37.5	98.0		≥ 30 ————— <45	97.5	
≥ 37.5 ————— <50	98.2		≥ 45 ————— <75	97.7	
≥ 50 ————— <75	98.3		≥ 75 ————— <112.5	98.0	
≥ 75 ————— <100	98.5		≥ 112.5 ————— <150	98.2	
≥ 100 ————— <167	98.6		≥ 150 ————— <225	98.3	
≥ 167 ————— <250	98.7		≥ 225 ————— <300	98.5	
≥ 250 ————— <333	98.8		≥ 300 ————— <500	98.6	
333	98.9		≥ 500 ————— <750	98.7	
=	=		≥ 750 ————— <1000	98.8	

-- -- 1000 98.9

kVa = kilovolt amperes

— (b) For the purposes of this section, low-voltage dry-type distribution transformer efficiency is measured in accordance with the national electrical manufacturers association TP-2-1998 test method.

— (7)) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide lamp ballast.

((8)) (6)(a) Single-voltage external AC to DC power supplies shall meet the requirements in the following table:

Nameplate output	Minimum Efficiency in Active Mode
< 1 Watt	0.49 * Nameplate Output
> or = 1 Watt and < or = 49 Watts	0.09 * Ln (Nameplate Output) + 0.49
> 49 Watts	0.84
	Maximum Energy Consumption in No-Load Mode
< 10 Watts	0.5 Watts
> or = 10 Watts and < or = 250 Watts	0.75 Watts

Where Ln (Nameplate Output) - Natural Logarithm of the nameplate output expressed in Watts

(b) For the purposes of this section, efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the United States environmental protection agency's "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC to DC and AC to AC Power Supplies," by Ecos Consulting and Power Electronics Application Center, dated August 11, 2004.

((9)) (7)(a) State-regulated incandescent reflector lamps ((that are not 50-watt elliptical reflector lamps must meet the minimum efficacies in the following table:

Wattage	Minimum average lamp efficacy (lumens per watt)
40-50	10.5
51-66	11.0
67-85	12.5
86-115	14.0
116-155	14.5
156-205	15.0

— (b) Lamp efficacy must be measured in accordance with the applicable federal test method as found at 10 C.F.R. Sec. 430.23.

— (10) Torchieres may not use more than 190 watts. A torchiere is deemed to use more than 190 watts if any commercially available lamp or combination of lamps can be inserted in a socket and cause the torchiere to draw more than 190 watts when operated at full brightness.

— (11)(a) Traffic signal modules must have maximum and nominal wattage that do not exceed the applicable values in the following table:

Module Type	Maximum Wattage (at 74°C)	Nominal Wattage (at 25°C)
12" red ball (or 300 mm circular)	17	11
8" red ball (or 200 mm circular)	13	8
12" red arrow (or 300 mm arrow)	12	9
12" green ball (or 300 mm circular)	15	15
8" green ball (or 200 mm circular)	12	12
12" green arrow (or 300 mm arrow)	11	11

mm = millimeter

~~(b) For the purposes of this section, maximum wattage and nominal wattage must be measured in accordance with and under the testing conditions specified by the institute for transportation engineers "Interim LED Purchase Specification, Vehicle Traffic Control Signal Heads, Part 2: Light Emitting Diode Vehicle Traffic Signal Modules.") shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps contained in 42 U.S.C. Sec. 6295(i)(1)(A).~~

~~(b) The following types of incandescent lamps are exempt from these requirements:~~

~~(i) Lamps rated at fifty watts or less of the following types: BR 30, ER 30, BR 40, and ER 40;~~

~~(ii) Lamps rated at sixty-five watts of the following types: BR 30, BR 40, and ER 40; and~~

~~(iii) R 20 lamps of forty-five watts or less.~~

~~((+2)) (8) Unit heaters must be equipped with intermittent ignition devices and must have either power venting or an automatic flue damper.~~

Sec. 4. RCW 19.260.050 and 2005 c 298 s 5 are each amended to read as follows:

(1) ~~((On or after January 1, 2007;))~~ No new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, ~~((illuminated exit sign, low-voltage dry-type distribution transformer, single-voltage external AC to DC power supply;))~~ state-regulated incandescent reflector lamp, ~~((torchiere, traffic signal module;))~~ or unit heater manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. ~~((On or after January 1, 2008;))~~ No new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(2) On or after January 1, 2008, no new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, ~~((illuminated exit sign, low-voltage dry-type distribution transformer;))~~ single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, ~~((torchiere, traffic signal module;))~~ or unit heater manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. On or after January 1, 2009, no new automatic commercial ice cube machine or metal halide lamp fixtures manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(3) Standards for metal halide lamp fixtures and state-regulated incandescent reflector lamps are effective on the dates in subsections (1) and (2) of this section."

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hankins; Hudgins; P. Sullivan; Sump; Takko and Wallace.

Passed to Committee on Rules for second reading.

February 22, 2006

SB 6861 Prime Sponsor, Senator Delvin: Requiring a study of competing interests of domestic water users. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Grant; Haler; Holmquist; Kilmer; Kretz; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

MINORITY recommendation: Without recommendation. Signed by Representatives Dunn and McCoy.

Passed to Committee on Rules for second reading.

February 22, 2006

ESSB 6870 Prime Sponsor, Senate Committee On Transportation: Funding the board of pilotage commissioners' training program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Campbell; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 22, 2006

ESJM 8019 Prime Sponsor, Senator Shin: Requesting the United States trade representative to create a federal-state international trade policy commission. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

Passed to Committee on Rules for second reading.

There being no objection, the bills, memorials and resolutions listed on the day's committee reports sheet under the fifth order of business were referred to the committees so designated except for HOUSE BILL NO. 3316 which was placed on second reading.

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

The Speaker assumed the chair.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6386, By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Zarelli, Fairley, Fraser, Rockefeller, Shin and Brandland; by request of Governor Gregoire)

Making 2006 supplemental operating appropriations.

The bill was read a second time.

There being no objection, the committee amendment by the Committee on Appropriations was before the House for purpose of amendments (for amendment, see Journal Day 47th, February 23, 2006).

With the consent of the House, amendments (906), (961), (962), (963), (967), (972), (990), (991) and (1000) were withdrawn.

Representative Eickmeyer moved the adoption of amendment (1002) to the committee amendment:

On page 13, line 28, after "(10)(a)" strike "\$600,000" and insert "\$297,000"

On page 13, line 29, after "team" strike "and" and insert "in coordination with"

On page 13, line 30, after "contract for" strike "a one-time" and insert "the initial phase of a two-part"

Representative Eickmeyer spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Nixon moved the adoption of amendment (959) to the committee amendment:

On page 22, line 3, strike "\$67,659,000" and insert "\$69,409,000"

On page 22, line 5, strike "\$45,556,000" and insert "\$45,806,000"

On page 28, line 14, strike all of subsection 24.

Renumber the remaining subsections consecutively.

On page 28, line 18, strike "\$1,500,000" and insert "\$1,750,000"

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

Representative Kessler spoke against the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (959) to Engrossed Substitute Senate Bill No. 6386.

MOTION

On motion of Representative Santos, Representatives Hasegawa and Williams were excused.

ROLL CALL

The Clerk called the roll on the adoption of amendment (959) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 44, Nays - 52, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh, and Woods - 44.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 52.

Excused: Representatives Hasegawa and Williams - 2.

Representative Conway moved the adoption of amendment (989) to the committee amendment:

On page 22, line 5, increase the general fund--state appropriation for fiscal year 2007 by \$200,000.

On page 23, line 8, correct the total.

On page 30, after line 16, insert the following:

"(42) \$200,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the safe and drug free schools program to help mitigate the effects of federal budget reductions."

On page 156, line 3, decrease the general fund--state appropriation for fiscal year 2007 by \$200,000.

On page 156, line 7, correct the total.

On page 157, line 18, strike "\$1,000,000" and insert "\$800,000"

Representative Conway spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Morris moved the adoption of amendment (977) to the committee amendment:

On page 22, line 5, increase the general fund--state appropriation for FY 07 by \$98,000

On page 23, line 8, correct the total.

On page 30, after line 16, insert the following:

"(42) \$98,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for grants to community-based organizations with expertise in public education relating to energy and clean air issues, for biofuels consumer education and outreach."

On page 214, line 7, reduce the general fund--state appropriation for FY 07 by \$98,000

On page 214, line 12, correct the total.

On page 217, line 28, strike all of subsection (17)

Representative Morris spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Alexander moved the adoption of amendment (968) to the committee amendment:

On page 22, line 38, decrease the Washington Housing Trust Account-State appropriation by \$670,000.

On page 23, line 8, correct the total.

On page 243, line 21, strike all of section 714

Renumber the remaining sections consecutively and correct internal references accordingly.

Representative Alexander, spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dunshee spoke against the adoption of the amendment to the committee amendment

The amendment to the committee amendment was not adopted.

Representative B. Sullivan moved the adoption of amendment (986) to the committee amendment:

On page 29, beginning on line 8, strike "a minimum of"

On page 29, line 10, after "with" insert "Snohomish and Pierce"

Representative B. Sullivan spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Jarrett moved the adoption of amendment (971) to the committee amendment:

On page 30, after line 16, insert the following:

"(42) \$20,000 of the general fund--state appropriation for fiscal year 2006 and \$480,000 of the general fund--state appropriation for fiscal year 2007 are provided solely for a land use task force. Funds may be used for policy, legal and financial research as directed by the task force, task force facilitation and outreach, and department expenses related to the task force.

(a) A joint legislative-executive task force is established for the purposes of gathering information, identifying issues, and developing recommendations on policy choices related to the effective implementation of the state's growth management act.

(b) The task force shall be comprised of two members of each of the major legislative caucuses from each of the house of representatives and the senate as appointed by the president of the senate and the speaker of the house of representatives, the governor or the governor's designee, and the director of the department. Staff support shall be provided by the department and legislative staff.

(d) The task force shall convene its first meeting no later than May 1, 2006. The task force shall consult with local governments and other groups responsible for, affected by, or involved in the implementation of the growth management act. The task force may secure research and facilitation services, and may establish work teams or advisory groups, as needed, to support their work.

(e) The task force shall secure an independent assessment of the effectiveness of land use programs in Washington in achieving the goals of the state's growth management act. The assessment shall rely on available information and focus on key benchmarks for each goal of the act.

(f) By December 1, 2006, the task force shall issue a report with recommendations on legislative and executive actions that address, at a minimum, the following topics: (i) How science is identified and applied when local governments develop regulations to protect critical areas under the growth management act, and the relationship of those regulations to pre-existing land uses; (ii) A review of the appeals process for actions taken under the growth management act, including data on the number and outcome of cases, and any recommendations on needed improvements to the appeals process.

(g) By June 30, 2007, the task force shall issue a report with recommendations on legislative and executive actions that address, at a minimum, the following topics: (i) How to better meet the infrastructure and basic service needs of growing communities, including schools, local roads, fire and police service, and water, sewer and other utilities, with recommendations for financing these service and infrastructure needs; (ii) How to ensure that state roads provide a level of service consistent with the local growth management decisions; (iii) The effect of the vested rights doctrine on the achievement of the goals and requirements of the growth management act; (iv) The effect of the provisions

for fully contained communities and master planned resorts on the achievement of the goals and requirements of the growth management act;(v) Performance measures for the ongoing evaluation of land use programs, based on the assessment conducted under subsection (e) of this section; and (vi) Any recommendations for additional topics that warrant continued work by the task force or by other groups.

(h) The legislature intends that the task force shall expire December 31, 2007. If ESSB 6427 (extending land use planning deadlines) is not enacted by April 30, 2006, this subsection (42) shall be null and void and the funds in this proviso revert to the department for other uses."

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

The amendment to the committee amendment was adopted.

Representative Nixon moved the adoption of amendment (958) to the committee amendment:

On page 49, line 23, after "network," insert "The Department shall investigate the potential savings in operational costs of 211 emergency services network of using voice-over-IP technology to interconnect 211 call centers over existing state-operated high-speed data networks rather than over traditional or switched telephone circuits, and the potential cost savings of using Voice-over-IP-based PBX, ACD, and telephone technology in new call centers. The Department shall submit a report in electronic form to the appropriate committees of the legislature on the potential for savings on or before December 1, 2006."

Representatives Nixon and Morris spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Hinkle moved the adoption of amendment (978) to the committee amendment:

On page 54, after line 20, insert the following:

"(7) No state or federal funds appropriated in sections 202 through 212 of this act for Medicaid programs shall be expended except for clients meeting the verified social security number requirements set forth in 42 CFR 435(J) as of February 23, 2006."

Representatives Hinkle and Sommers spoke in favor of the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (978) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (978) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 94, Nays - 2, Absent - 0, Excused - 2.

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

Voting nay: Representatives Flannigan and Kirby - 2.

Excused: Representatives Hasegawa and Williams - 2.

Representative Simpson moved the adoption of amendment (992) to the committee amendment:

On page 79, line 8, increase the general fund--state appropriation for fiscal year 2007 by \$4,036,000

On page 79, line 10, increase the general fund--federal appropriation by \$4,036,000

On page 79, line 17, correct the total

On page 80, line 3, after "~~(\$153.50)~~" strike "\$156.61" and insert "\$158.55"

On page 83, line 21, after "(20)" strike "\$10,000,000" and insert "\$14,036,000"

On page 83, line 22, after "and" strike "\$10,000,000" and insert "\$14,036,000"

Representatives Simpson, Armstrong, Bailey, Hinkle, Ahern, McDonald, Skinner, Simpson (again), Curtis and Newhouse spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Cody, Fromhold, Schual-Berke and Dickerson spoke against the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (992) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (992) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 71, Nays - 25, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Condotta, Conway, Cox, Crouse, Curtis, DeBolt, Dunn, Dunshee, Ericks, Ericksen, Grant, Green, Haler, Hankins, Hinkle, Holmquist, Hudgins, Jarrett, Kilmer, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDonald, Miloscia, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Priest, Quall, Roach, Rodne, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Wallace, Walsh, Wood and Woods - 71.

Voting nay: Representatives Blake, Cody, Darneille, Dickerson, Eickmeyer, Flannigan, Fromhold, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, McDermott, McIntire, Moeller, Ormsby, Pettigrew, Roberts, Santos, Schual-Berke, Sommers, Upthegrove and Mr. Speaker - 25.

Excused: Representatives Hasegawa and Williams - 2.

Representative Clibborn moved the adoption of amendment (996) to the committee amendment:

On page 89, line 3, increase the general fund--state appropriation for FY 2007 by \$3,000,000

On page 89, line 14, correct the total.

Representatives Clibborn and McDonald spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Clements moved the adoption of amendment (981) to the committee amendment:

On page 95, after line 3, insert the following:

"(26) No funds appropriated in this section shall be expended upon gender reassignment surgery or treatment."

Representative Clements spoke in favor of the adoption of the amendment to the committee amendment.

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

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (981) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (981) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 64, Nays - 32, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Kessler, Kilmer, Kretz, Kristiansen, Lantz, Linville, Lovick, McCune, McDonald, Miloscia, Morrell, Morris, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Talcott, Wallace, Walsh, and Woods - 64.

Voting nay: Representatives Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Flannigan, Fromhold, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kirby, McCoy, McDermott, McIntire, Moeller, Murray, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sommers, Takko, Tom, Upthegrove, Wood, and Mr. Speaker - 32.

Excused: Representatives Hasegawa, and Williams - 2.

With the consent of the House, amendment (1001) was withdrawn.

Representative Conway moved the adoption of amendment (995) to the committee amendment:

On page 97, line 24, increase the health services account--state appropriation by \$3,000,000.

On page 97, line 26, correct the total.

Representative Conway and Bailey spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The Speaker called upon Representative Lovick to preside.

Representative Hinkle moved the adoption of amendment (980) to the committee amendment:

On page 100, after line 38, insert the following:

"(16) \$9,542,000 of the health services account appropriation is provided solely for additional slots in the basic health plan for qualified individuals who are resident citizens, legal aliens, legal refugees, or legal asylees, and who provide valid social security numbers upon application for enrollment. Income eligibility requirements for the additional slots must be verified by the federal internal revenue service."

Representatives Hinkle, Clements, Armstrong and McDonald spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Cody and Simpson spoke against the adoption of the amendment to the committee amendment

The amendment to the committee amendment was not adopted.

Representative Ericksen moved the adoption of amendment (985) to the committee amendment:

On page 108, line 14, after "(veterans' innovations program)." insert the following:

"Of the amount appropriated in this subsection, \$50,000 is provided solely for a feasibility study on the use of medical vouchers for veterans that enable them to go to hospitals other than VA hospitals."

Representatives Ericksen, Morrell and Ericksen (again) spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The Speaker assumed the chair.

Representative Haler moved the adoption of amendment (979) to the committee amendment:

On page 108, after line 16, insert the following:

"(d) Amounts appropriated in this section may not be used for any purposes relating to public service announcements by statewide elected officials."

Representatives Haler and Kessler spoke in favor of the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (979) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (979) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 84, Nays - 12, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Clements, Clibborn, Cody, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kenney, Kessler, Kilmer, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, Miloscia, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Talcott, Tom, Wallace, Walsh, Wood, Woods, and Mr. Speaker - 84.

Voting nay: Representatives Chase, Conway, Darneille, Dickerson, Flannigan, Kagi, Kirby, McIntire, Moeller, Schual-Berke, Takko, and Upthegrove - 12.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Schual-Berke moved the adoption of amendment (994) to the committee amendment:

On page 109, line 16, increase the general fund--state appropriation for FY 2007 by \$2,000,000

On page 110, line 28, correct the total.

On page 117, after line 10, insert the following:

"(38) \$2,000,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for pandemic flu and communicable disease outbreak preparedness and response planning. Of the amounts provided: (a) \$120,000 is for activities by the department of health; (b) \$380,000 is for the department to distribute to local health jurisdictions for development of pandemic flu and communicable disease outbreak preparedness and response plans to be approved by the department; and (c) \$1,500,000 is for the department to distribute to local health jurisdictions for implementation of spending plans approved by the department. To the extent that federal funds are available for planning purposes, those funds shall be used first and all state funds shall be reserved for implementation purposes."

Representative Schual-Berke spoke in favor of the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (994) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (994) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 86, Nays - 10, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Anderson, Appleton, Armstrong, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Condotta, Conway, Crouse, Curtis, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos,

Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Tom, Upthegrove, Wallace, Walsh, and Wood - 84.

Voting nay: Representatives Alexander, Bailey, Chandler, Cox, DeBolt, Ericksen, Kirby, Newhouse, Schindler, and Talcott - 10.

Excused: Representatives Hasegawa, and Williams - 2.

Representative B. Sullivan moved the adoption of amendment (969) to the committee amendment:

On page 129, line 17, strike "complete" and insert "continue"

Representative B. Sullivan spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative McIntire moved the adoption of amendment (966) to the committee amendment:

On page 129, after line 27, insert the following:

"(23) \$2,405,000 of the state toxics control account--state appropriation is provided solely to the department to implement the Cleanup Priority Act RCW 70.105E. The department may only use these funds in a manner consistent with the limitation of the Act in RCW 70.105E.040(1) and, shall not utilize any funds to apply the Cleanup Priority Act in any manner to substances which are not either dangerous wastes or hazardous substances released into the environment. The department shall issue explanatory statements, interpretive statements and rules for implementation of the cleanup priority act that do not: regulate medical or industrial isotope production or use, or otherwise expand the universe of substances regulated as dangerous or mixed wastes; or increase permit requirements for mixed wastes at United States Naval facilities, beyond those already regulated pursuant to the Hazardous Waste Management Act, RCW Chapter 70.105."

Representatives McIntire, Chase, Nixon spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Hankins and Haler spoke against the adoption of the amendment to the committee amendment

The amendment to the committee amendment was not adopted.

Representative Kessler moved the adoption of amendment (988) to the committee amendment:

On page 130, beginning on line 36, strike all of subsection (5) and insert the following:

"(5) Until July 1, 2007, the commission may not charge fees for general park access or parking. Funding of \$2,800,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to compensate state parks and recreation commission for lost revenue from general park access or parking fees."

On page 255, after line 6, insert the following:

"NEW SECTION. Sec. 904. RCW 79A.05.070 and 2003 c 186 s 1 are each amended to read as follows:

The commission may:

- (1) Make rules and regulations for the proper administration of its duties;
- (2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;
- (3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;
- (4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;
- (5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. Until July 1, 2007, the commission may not charge fees for general park access or parking;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed forty years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose."

Renumber the remaining sections consecutively.

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

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (988) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (988) to Engrossed Substitute Senate Bill No. 6386, and the amendment was adopted by the following vote: Yeas - 94, Nays - 2, Absent - 0, Excused - 2.

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

Voting nay: Representatives Hudgins, and Kirby - 2.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Priest moved the adoption of amendment (999) to the committee amendment:

On page 160, line 22, increase the general fund--state appropriation for FY 2007 by \$1,140,022

On page 160, line 24, correct the total.

On page 168, line 16, before "hours" strike "February 19, 2006, at 21:30 hours" and insert "February 23, 2006, at 20:00"

On page 170, strike all material on lines 4 through 31 and insert the following:

**Table Of Total Base Salaries For Certificated Instructional Staff
For School Year 2006-07**

Years of Service									MA+90
	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	OR Ph.D.
0	31,545	32,398	33,281	34,165	37,003	38,832	37,820	40,660	42,490
1	31,811	32,672	33,561	34,480	37,334	39,144	38,051	40,906	42,715
2	32,054	32,917	33,812	34,797	37,629	39,448	38,281	41,113	42,932
3	32,467	33,338	34,243	35,259	38,086	39,949	38,678	41,503	43,367
4	32,871	33,782	34,691	35,743	38,586	40,463	39,095	41,938	43,816
5	33,290	34,204	35,123	36,233	39,065	40,980	39,518	42,352	44,266
6	33,719	34,614	35,564	36,729	39,548	41,473	39,952	42,771	44,694
7	34,475	35,383	36,345	37,574	40,435	42,412	40,764	43,624	45,603
8	35,580	36,538	37,523	38,853	41,753	43,803	42,043	44,943	46,993
9	35,580	37,734	38,768	40,146	43,113	45,234	43,335	46,304	48,424

10	35,580	37,734	40,028	41,506	44,512	46,703	44,696	47,703	49,893
11	35,580	37,734	40,028	42,905	45,977	48,212	46,095	49,168	51,401
12	35,580	37,734	40,028	44,260	47,481	49,783	47,549	50,671	52,973
13	35,580	37,734	40,028	44,260	49,022	51,392	49,055	52,212	54,582
14	35,580	37,734	40,028	44,260	50,570	53,062	50,604	53,862	56,252
15	35,580	37,734	40,028	44,260	51,886	54,442	51,920	55,262	57,715
16	35,580	37,734	40,028	44,260	52,923	55,530	52,958	56,367	58,869

On page 185, line 28, reduce general fund--state appropriation for FY 2007 by \$1,327,000.

On page 185, line 32, correct the total.

On page 187, after line 22, strike all language through line 25.

Representative Priest spoke in favor of the adoption of the amendment to the committee amendment.

Representative Santos spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (999) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (999) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 53.

Excused: Representatives Hasegawa and Williams - 2.

Representative Anderson moved the adoption of amendment (997) to the committee amendment:

On page 160, line 22, strike "\$4,281,383,000" and insert "\$4,276,672,000"

On page 160, line 24, correct the total.

On page 168, beginning on line 15, strike "~~(March 18, 2005, at 10:00)~~ February 19, 2006, at 21:30" and insert "March 18, 2005, at 10:00"

Beginning on page 169, line 17, strike all material through line 31 on page 170 and insert the following:

"K-12 Salary Allocation Schedule For Certificated Instructional Staff 2006-07 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,900	31,735	32,599	33,466	36,247	38,038	37,046	39,827	41,620
1	31,316	32,162	33,038	33,942	36,752	38,534	37,458	40,268	42,048
2	31,712	32,566	33,451	34,426	37,228	39,028	37,873	40,674	42,475
3	32,121	32,983	33,878	34,883	37,679	39,523	38,266	41,060	42,905
4	32,521	33,421	34,321	35,362	38,174	40,031	38,678	41,491	43,348

5	32,935	33,840	34,748	35,846	38,649	40,543	39,097	41,900	43,794
6	33,360	34,245	35,185	36,337	39,127	41,031	39,526	42,315	44,218
7	34,107	35,005	35,957	37,173	40,003	41,960	40,330	43,159	45,116
8	35,201	36,148	37,123	38,439	41,307	43,336	41,594	44,464	46,492
9		37,332	38,355	39,718	42,654	44,751	42,873	45,810	47,908
10			39,601	41,063	44,038	46,205	44,219	47,194	49,361
11				42,448	45,487	47,698	45,603	48,644	50,853
12				43,788	46,975	49,252	47,042	50,131	52,409
13					48,499	50,844	48,532	51,655	54,000
14					50,031	52,496	50,065	53,287	55,652
15					51,333	53,862	51,366	54,673	57,099
16 or more					52,359	54,938	52,393	55,766	58,241"

On page 183, line 22, strike "\$186,144,000" and insert "\$190,957,000"

Correct the total.

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

Representative Fromhold spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (997) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (997) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 53.

Excused: Representatives Hasegawa and Williams - 2.

Representative Talcott moved the adoption of amendment (998) to the committee amendment:

On page 160, line 22, strike "\$4,281,383,000" and insert "\$4,276,672,000"

On page 160, line 24, correct the total.

On page 168, beginning on line 15, strike "~~(March 18, 2005, at 10:00)~~ February 19, 2006, at 21:30" and insert "March 18, 2005, at 10:00"

Beginning on page 169, line 17, strike all material through line 31 on page 170 and insert the following:

**"K-12 Salary Allocation Schedule For Certificated Instructional Staff
2006-07 School Year**

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,900	31,735	32,599	33,466	36,247	38,038	37,046	39,827	41,620
1	31,316	32,162	33,038	33,942	36,752	38,534	37,458	40,268	42,048
2	31,712	32,566	33,451	34,426	37,228	39,028	37,873	40,674	42,475
3	32,121	32,983	33,878	34,883	37,679	39,523	38,266	41,060	42,905

4	32,521	33,421	34,321	35,362	38,174	40,031	38,678	41,491	43,348
5	32,935	33,840	34,748	35,846	38,649	40,543	39,097	41,900	43,794
6	33,360	34,245	35,185	36,337	39,127	41,031	39,526	42,315	44,218
7	34,107	35,005	35,957	37,173	40,003	41,960	40,330	43,159	45,116
8	35,201	36,148	37,123	38,439	41,307	43,336	41,594	44,464	46,492
9		37,332	38,355	39,718	42,654	44,751	42,873	45,810	47,908
10			39,601	41,063	44,038	46,205	44,219	47,194	49,361
11				42,448	45,487	47,698	45,603	48,644	50,853
12				43,788	46,975	49,252	47,042	50,131	52,409
13					48,499	50,844	48,532	51,655	54,000
14					50,031	52,496	50,065	53,287	55,652
15					51,333	53,862	51,366	54,673	57,099
16 or more					52,359	54,938	52,393	55,766	58,241"

On page 185, line 28, increase the general fund--state appropriation for FY 2007 by \$300,000

Correct the total.

On page 188, line 33, strike "\$338,000" and insert "~~(\$338,000)~~ \$638,000"

On page 196, line 23, increase the general fund--state appropriation for FY 2007 by \$4,411,000

Correct the total.

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

Representative Hunter spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (998) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (998) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood, and Mr. Speaker - 53.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Talcott moved the adoption of amendment (1003) to the committee amendment:

On page 187, line 22, strike "\$1,327,000" and insert "\$1,027,000"

On page 188, line 34, after "2006 and" strike "\$338,000" and insert "~~(\$338,000)~~ \$638,000"

Representatives Talcott, Tom, Curtis, Shabro, Priest and Talcott (again) spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Santos, P. Sullivan and Sommers spoke against the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (1003) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (1003) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 46, Nays - 50, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Green, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kagi, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 46.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Haigh, Hudgins, Hunt, Hunter, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 50.

Excused: Representatives Hasegawa and Williams - 2.

The Speaker called upon Representative Lovick to preside.

Representative Kenney moved the adoption of amendment (993) to the committee amendment:

On page 205, line 14, increase the general fund--state appropriation for FY 07 by \$2,400,000

On page 205, line 21, correct the total.

On page 207, line 33, after "2006" insert ",\$2,400,000 of the general fund--state appropriation for fiscal year 2007, and"

On page 208, line 3, after "same amount." insert "Beginning in fiscal year 2007, the state board shall determine the method of allocating to the community and technical colleges the appropriations granted for academic employee increments, provided that the amount of the appropriation attributable to the proportionate share of the part-time faculty salary base shall only be accessible for part-time faculty."

Representatives Kenney, Cox, Lantz and Jarrett spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative Dunn moved the adoption of amendment (975) to the committee amendment:

On page 205, line 14, reduce the general fund--state appropriation for FY 07 by \$400,000

On page 205, line 21, correct the total.

On page 207, line 33, after "2006" insert ",\$1,000,000 of the general fund--state appropriation for fiscal year 2007."

On page 208, line 3, after "same amount." insert "Beginning in fiscal year 2007, the state board shall determine the method of allocating to the community and technical colleges the appropriations granted for academic employee increments, provided that the amount of the appropriation attributable to the proportionate share of the part-time faculty salary base shall only be accessible for part-time faculty."

On page 209, line 13, strike all of subsection (17)

Renumber remaining subsections consecutively and correct internal references accordingly.

Representative Dunn spoke in favor of the adoption of the amendment to the committee amendment.

Representative Morris spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (975) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (975) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 39, Nays - 57, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Skinner, Strow, Sump, and Tom - 39.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Shabro, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Talcott, Upthegrove, Wallace, Walsh, Wood, Woods, and Mr. Speaker - 57.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Ericksen moved the adoption of amendment (984) to the committee amendment:

On page 210, line 7, reduce the general fund--state appropriation for FY 07 by \$25,000

On page 210, line 17, correct the total.

On page 213, line 9, after "(14)" strike "\$100,000" and insert "\$75,000"

On page 214, line 7, reduce the general fund--state appropriation for FY 07 by \$25,000

On page 214, line 12, correct the total.

On page 216, line 31, after "(10)" strike "\$100,000" and insert "\$75,000"

On page 221, line 18, increase the general fund--state appropriation for FY 07 by \$50,000

On page 221, line 23, correct the total.

On page 224, after line 9, insert the following:

"(10) \$50,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to the washington state institute for public policy to conduct a study comparing this state with others in the following categories:

(a) Which states have a constitutional spending limit? Identify states with constitutional spending limits and describe the components of those limits. Determine whether legislatures having constitutional spending limits are more or less likely to exceed spending limits than those having statutory limits.

(b) Which states have a constitutionally protected reserve fund? Determine if in states where reserve funds are in the constitution if it puts a state in a more fiscally stable position in times of downturns.

(c) Which states constitutionally require a 60 percent vote to raise taxes? Determine if in states where there is a 60 percent requirement if taxes are less likely to be raised.

(d) Which states have a "sunshine law" requiring a minimum time of public exposure of acts making appropriations before such legislation may be voted on? Evaluate the impacts of such provisions on public awareness of and participation in the budget process and in enhancing the accountability of budget policy making."

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

Representative McIntire spoke against the adoption of the amendment to the committee amendment.

POINT OF ORDER

Representative Hunt:

SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding):

The Speaker assumed the chair.

Representatives Anderson (again), Orcutt and Serben spoke in favor of the adoption of the amendment to the committee amendment.

POINT OF ORDER

Representative Wallace:

SPEAKER'S RULING

Mr. Speaker:

Representative Serben (continued) spoke against the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (984) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (984) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood, and Mr. Speaker - 53.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Chandler moved the adoption of amendment (973) to the committee amendment:

On page 242, line 15, strike all of section 712

Renumber the remaining sections and correct internal references accordingly.

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

Representative Grant spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker stated the question before the House to be adoption of amendment (973) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (973) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 34, Nays - 62, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Jarrett, Kretz, Kristiansen, McCune, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Sump, Talcott, and Woods - 34.

Voting nay: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Wood, and Mr. Speaker - 62.

Excused: Representatives Hasegawa, and Williams - 2.

Representative Bailey moved the adoption of amendment (974) to the committee amendment:

On page 244, beginning on line 15, strike all of section 716

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

Remove all appropriations made in this act from the Pension Funding Stabilization Account--State.

Correct the totals in each section of this act for any removal of appropriations from the Pension Funding Stabilization Account--State.

Beginning on page 244, line 27, strike all of section 717

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

Representatives Bailey, Alexander, Armstrong and Buri spoke in favor of the adoption of the amendment to the committee amendment.

Representative Fromhold spoke against the adoption of the amendment to the committee amendment

An electronic roll call was requested.

The Speaker called upon Representative Lovick to preside.

The Speaker (Representative Lovick presiding) stated the question before the House to be adoption of amendment (974) to Engrossed Substitute Senate Bill No. 6386.

ROLL CALL

The Clerk called the roll on the adoption of amendment (974) to Engrossed Substitute Senate Bill No. 6386, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 53, Absent - 0, Excused - 2.

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

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood, and Mr. Speaker - 53.

Excused: Representatives Hasegawa and Williams - 2.

MOTION

On motion of Representative Hunt, the House immediately reconsidered the vote on amendment (959) to the committee amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6386.

RECONSIDERATION

The Speaker (Representative Lovick presiding) stated the question before the House to be the vote on amendment (959) to the committee amendment to Engrossed Substitute Senate Bill No. 6386 on reconsideration.

ROLL CALL

The Clerk called the roll on amendment (959) to the committee amendment to Engrossed Substitute Senate Bill No. 6386 on reconsideration and the amendment failed the House by the following vote: Yeas - 45, Nays - 51, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, Linville, McCune, McDonald, Morris, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 45.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood and Mr. Speaker - 51.

Excused: Representatives Hasegawa and Williams - 2.

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

Representatives Sommers, Quall, Kenney, McIntire, Kagi and Kessler spoke in favor of passage of the bill.

Representatives Alexander, Clements, Armstrong, Ericksen, Roach, Ahern, Orcutt, Bailey, Curtis, Strow, Jarrett, Serben and DeBolt spoke against the passage of the bill.

***check tape for exact order of points and rulings

POINT OF ORDER**SPEAKER'S RULING**

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6386, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6386, as amended by the House and the bill passed the House by the following vote: Yeas - 53, Nays - 43, Absent - 0, Excused - 2.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Wood, and Mr. Speaker - 53.

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

Excused: Representatives Hasegawa, and Williams - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6386, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

REPORTS OF STANDING COMMITTEES SUPPLEMENTAL 1

February 23, 2006

SSB 5141 Prime Sponsor, Senate Committee On Ways & Means: Providing for early intervention services for children with disabilities. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass. Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Referred to Committee on Appropriations.

February 23, 2006

ESSB 5360 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Studying performance and funding of running start students. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass as amended:

On page 2, line 5, after "instruction" strike ", with the assistance of" and insert "and"

On page 2, line 6, after "colleges" strike "and" and insert ", in consultation with"

Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Dunn; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

Referred to Committee on Appropriations.

February 22, 2006

SB 5439 Prime Sponsor, Senator Roach: Authorizing background checks on gubernatorial appointees. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass. Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt; McDermott; Miloschia; Schindler and Sump.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 5849 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Requiring cyberbullying to be included in school district harassment prevention policies. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Talcott, Ranking Minority Member; Haigh; Hunter; McDermott; Santos; Shabro; Tom and Wallace.

MINORITY recommendation: Signed by Representatives Anderson, Assistant Ranking Minority Member; Curtis.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6133 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Licensing Christmas tree growers. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Appleton; Blake; Chase; Clibborn; Grant; McCoy; Morrell; Quall; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Bailey; Buri; Dunn; Haler; Holmquist; Kilmer; Kretz; Newhouse and Strow.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6144 Prime Sponsor, Senate Committee On Human Services & Corrections: Changing registration requirements for sex offenders coming from outside the state who establish or reestablish Washington residency. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. 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.

Sec. 2. RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW ~~((4.24.500))~~ 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within ~~((thirty))~~ three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington. When an offender registers under this subsection (4)(a)(v), the county sheriff shall provide written notice to the offender that he or she is subject to Washington law for any new felony he or she commits within the state. The county sheriff shall require that the offender sign the notice and shall retain the signed copy of the notice as verification that the offender has received it. The county sheriff shall give a copy of the signed notice to the offender for his or her retention. The fact that an offender has or has not received the notice required under this subsection does not prohibit, or in any way limit, the ability of Washington or any other jurisdiction to prosecute the offender for any crimes committed in this state. The notice must be in at least ten point type and must be in substantially the following form:

NOTICE

AS A NEW OR RETURNING RESIDENT OF WASHINGTON STATE, YOU ARE SUBJECT TO WASHINGTON LAW FOR ANY NEW FELONY YOU COMMIT WITHIN THE STATE. ANY PRIOR CONVICTIONS YOU HAVE FROM OTHER JURISDICTIONS MAY AFFECT THE MANNER IN WHICH YOU ARE SENTENCED IN WASHINGTON. FOR EXAMPLE, YOUR SENTENCE FOR A NEW FELONY COMMITTED IN WASHINGTON COULD BE LIFE WITHOUT THE POSSIBILITY OF PAROLE IF YOUR CRIMINAL HISTORY INCLUDES A CONVICTION FROM WASHINGTON OR ANY OTHER JURISDICTION THAT WOULD BE CONSIDERED A "STRIKE" UNDER WASHINGTON'S PERSISTENT OFFENDER LAW. A LIST OF STRIKE OFFENSES MAY BE FOUND IN THE DEFINITION OF "PERSISTENT OFFENDER" IN RCW 9.94A.030.

SIGNATURE:

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10)(a) A person who knowingly fails to register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11)(a) A person who knowingly fails to register or who moves within the state without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

NEW SECTION. Sec. 3. This act takes effect September 1, 2006."

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6171 Prime Sponsor, Senate Committee On Ways & Means: Creating a demonstration project to help prepare bilingual and special education teachers. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass. Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Dunn; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

Referred to Committee on Appropriations.

February 23, 2006

2SSB 6172 Prime Sponsor, Senate Committee On Ways & Means: Increasing penalties for specified sex offenses. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.68A.090 and 2003 c 53 s 42 and 2003 c 26 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a gross misdemeanor.

(2) A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person has previously been convicted under this section or of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state or if the person communicates with a minor or with someone the person believes to be a minor for immoral purposes through the sending of an electronic communication.

Sec. 2. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2
CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
Malicious explosion 1 (RCW 70.74.280(1))
Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Kidnapping 1 (RCW 9A.40.020)
Leading Organized Crime (RCW 9A.82.060(1)(a))

- Malicious explosion 3 (RCW 70.74.280(3))
 Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
 Explosive devices prohibited (RCW 70.74.180)
 Hit and Run--Death (RCW 46.52.020(4)(a))
 Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 Malicious placement of an explosive 2 (RCW 70.74.270(2))
 Robbery 1 (RCW 9A.56.200)
 Sexual Exploitation (RCW 9.68A.040)
 Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
 Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 Manslaughter 2 (RCW 9A.32.070)
 Promoting Prostitution 1 (RCW 9A.88.070)
 Theft of Ammonia (RCW 69.55.010)
 Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
 Child Molestation 2 (RCW 9A.44.086)
 Civil Disorder Training (RCW 9A.48.120)
 Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
 Drive-by Shooting (RCW 9A.36.045)
 Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
 Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
 Introducing Contraband 1 (RCW 9A.76.140)
 Malicious placement of an explosive 3 (RCW 70.74.270(3))
 Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
 Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
 Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

- Use of a Machine Gun in Commission of a Felony (RCW 9A.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(3))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (Except Assault 3 of a Peace
Officer With a Projectile Stun
Gun) (RCW 9A.36.031 except
subsection (1)(h))
Assault of a Child 3 (RCW 9A.36.140)
Bail Jumping with class B or C Felony
(RCW 9A.76.170(3)(c))
Burglary 2 (RCW 9A.52.030)
Communication with a Minor for
Immoral Purposes (RCW
9.68A.090)
Criminal Gang Intimidation (RCW
9A.46.120)
Criminal Mistreatment 2 (RCW
9A.42.030)
Custodial Assault (RCW 9A.36.100)
Cyberstalking (subsequent conviction
or threat of death) (RCW
9.61.260(3))
Escape 2 (RCW 9A.76.120)
Extortion 2 (RCW 9A.56.130)
Harassment (RCW 9A.46.020)
Intimidating a Public Servant (RCW
9A.76.180)
Introducing Contraband 2 (RCW
9A.76.150)
Malicious Injury to Railroad Property
(RCW 81.60.070)
Negligently Causing Substantial Bodily
Harm By Use of a Signal
Preemption Device (RCW
46.37.674)
Patronizing a Juvenile Prostitute
(RCW 9.68A.100)
Perjury 2 (RCW 9A.72.030)
Possession of Incendiary Device (RCW
9.40.120)
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW
9.41.190)
Promoting Prostitution 2 (RCW
9A.88.080)
Securities Act violation (RCW
21.20.400)
Tampering with a Witness (RCW
9A.72.120)
Telephone Harassment (subsequent
conviction or threat of death)
(RCW 9.61.230(2))
Theft of Livestock 2 (RCW 9A.56.083)
Trafficking in Stolen Property 2 (RCW
9A.82.055)
Unlawful Imprisonment (RCW
9A.40.040)
Unlawful possession of firearm in the
second degree (RCW 9.41.040(2))
Vehicular Assault, by the operation or
driving of a vehicle with disregard
for the safety of others (RCW
46.61.522)
Willful Failure to Return from Work
Release (RCW 72.65.070)

- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)
Unlawful Production of Payment
Instruments (RCW 9A.56.320)
Unlawful Trafficking in Food Stamps
(RCW 9.91.142)
Unlawful Use of Food Stamps (RCW
9.91.144)
Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 3. RCW 9.68A.070 and 1990 c 155 s 1 are each amended to read as follows:

A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a class ((E))
B felony.

Sec. 4. RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

- (n) Rape in the third degree;
- (o) Robbery in the second degree;
- (p) Sexual exploitation;
- (q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;
- (r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- (s) Any other class B felony offense with a finding of sexual motivation;
- (t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;
- (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;
- (v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.
- (30) "Nonviolent offense" means an offense which is not a violent offense.
- (31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.
- (32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.
- (33) "Persistent offender" is an offender who:
 - (a)(i) Has been convicted in this state of any felony considered a most serious offense; and
 - (ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or
 - (b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (33)(b)(i); and
 - (ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.
- (34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.
- (35) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.
- (36) "Public school" has the same meaning as in RCW 28A.150.010.
- (37) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.
- (38) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.
- (39) "Serious traffic offense" means:
 - (a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or
 - (b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.
- (40) "Serious violent offense" is a subcategory of violent offense and means:
 - (a)(i) Murder in the first degree;

- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or
- (ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(41) "Sex offense" means:

- (a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);
 - (ii) A violation of RCW 9A.64.020;
 - (iii) A felony that is a violation of chapter 9.68A RCW other than RCW ~~((9.68A.070 or))~~ 9.68A.080; or
 - (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;
- (b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense

in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(42) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(43) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(44) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(45) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(46) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(47) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(48) "Violent offense" means:

(a) Any of the following felonies:

- (i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;
- (ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;
- (iii) Manslaughter in the first degree;
- (iv) Manslaughter in the second degree;
- (v) Indecent liberties if committed by forcible compulsion;
- (vi) Kidnapping in the second degree;
- (vii) Arson in the second degree;
- (viii) Assault in the second degree;
- (ix) Assault of a child in the second degree;
- (x) Extortion in the first degree;
- (xi) Robbery in the second degree;
- (xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(49) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(50) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(51) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 5. RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(9) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(10) "Confinement" means total or partial confinement.

(11) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(12) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(13) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(14) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(15) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(16) "Department" means the department of corrections.

(17) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(18) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(19) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(20) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(21) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(22) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(23) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(24) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(25) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(26) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(27) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(28) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the

definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(29) "Nonviolent offense" means an offense which is not a violent offense.

(30) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(31) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(32) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (32)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(33) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(34) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(35) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(36) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(37) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(38) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW ((9.68A.070 or)) 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(39) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(40) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(41) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(42) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(43) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(44) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(45) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(46) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(47) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(48) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

NEW SECTION. Sec. 6. Section 4 of this act expires July 1, 2006.

NEW SECTION. Sec. 7. Section 5 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 8. If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2006, in the omnibus appropriations act, section 2 of this act is null and void."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

SSB 6185 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Modifying the family and medical leave act. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse and Holmquist.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6193 Prime Sponsor, Senate Committee On Ways & Means: Requiring surveys of health professions work force supply and demographics. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature intends to address barriers to gender-appropriate and culturally and linguistically appropriate health care and health education materials, including increasing the number of female and minority health care providers, through expanded recruiting, education, and retention programs. The legislature finds that before developing a work force that is representative of the diversity of the state's population, relevant and accurate data on health care professionals, students in health care professions, and recipients of health services must first be collected.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in collaboration with the work force training and education coordinating board, shall distribute survey questions for the purpose of gathering data related to work force supply and demographics to all health care providers who hold a license to practice a health profession. The department shall adopt a schedule for distributing surveys by profession so that each profession is surveyed every two years. In developing the survey, the department shall seek advice from researchers that are likely to use the survey data.

(2)(a) At a minimum, the survey shall include questions related to understanding the following characteristics of individuals in the health care work force:

- (i) Specialty;
- (ii) Birthdate and gender;
- (iii) Race and ethnicity;
- (iv) Hours in practice per week;
- (v) Practice statistics, including hours spent in direct patient care;
- (vi) Zip codes of the location where the provider practices;
- (vii) Years in practice, years in practice in Washington, location and years in practice in other jurisdictions;
- (viii) Education and training background, including the location and types of education and training received; and
- (ix) Type of facilities where the provider practices.

(b) The department may approve proposals for the distribution of surveys containing additional data elements to selected health care professions if it determines that there is a legitimate research interest in obtaining the information, the additional burden on members of the health care profession is not unreasonable, the effect on survey response rates is not unreasonable, and there are funds available. The department may accept funds through contracts, grants, donations, or other forms of contributions to support more detailed surveys.

(3) The department must make a public data set available that meets the confidentiality requirements of subsection (5) of this section. The department may respond to requests for data and other information from the registry for special studies and analysis pursuant to a data-sharing agreement. Any use of the data by the requestor must comply with the confidentiality requirements of subsection (5) of this section. The department may require requestors to pay any or all of the reasonable costs associated with such requests that may be approved.

(4) The failure to complete or return the survey may not be grounds to withhold, fail to renew, or revoke a license or to impose any other disciplinary sanctions against a credentialed health care provider.

(5) The department must process the surveys that it receives in such a way that the identity of individual providers remains confidential. Data elements related to the identification of individual providers are confidential and are exempt from RCW 42.56.040 through 42.56.570 and 42.17.350 through 42.17.450, except as provided in a data-sharing agreement approved by the department pursuant to subsection (3) of this section.

(6) By July 1, 2009, the department shall provide a report to the appropriate committees of the legislature on the effectiveness of using a survey to obtain information on the supply of health care professionals, the distribution and use of the information obtained by the surveys by employers and health professions education and training programs and the extent to which the surveys have alleviated identified shortages of trained health care providers.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1, 2006.

NEW SECTION. **Sec. 4.** This act expires January 1, 2012."

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Bailey; Clibborn; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta.

Referred to Committee on Appropriations.

February 23, 2006

ESB 6194 Prime Sponsor, Senator Franklin: Requiring multicultural education for health professionals. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that women and people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature finds that it shall be a priority for the state to develop the knowledge, attitudes, and practice skills of health professionals and those working with diverse populations to achieve a greater understanding of the relationship between culture and health and gender and health.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) For the purposes of this section, "multicultural health" means the provision of health care services with the knowledge and awareness of the causes and effects of the determinants of health that lead to disparities in health status between different genders and racial and ethnic populations and the practice skills necessary to respond appropriately.

(2) The department, in consultation with the disciplining authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing multicultural health awareness and education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the knowledge, attitudes, and practice skills necessary to care for diverse populations to achieve a greater understanding of the relationship between culture and health. The disciplining authorities having the authority to offer continuing education may provide training in the dynamics of providing culturally competent, multicultural health care to diverse populations. Any such education shall be developed in collaboration with education programs that train students in that health profession. No funds from the health professions account may be utilized to fund activities under this section unless the disciplining authority authorizes expenditures from its proportions of the account. A disciplining authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program.

(3) By July 1, 2008, each education program with a curriculum to train health professionals for employment in a profession credentialed by a disciplining authority under chapter 18.130 RCW shall integrate into the curriculum instruction in multicultural health as part of its basic education preparation curriculum. The department may not deny the application of any applicant for a credential to practice a health profession on the basis that the education or training program that the applicant successfully completed did not include integrated multicultural health curriculum as part of its basic instruction."

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Appleton; Clibborn; Green; Lantz; Moeller; Morrell; Schual-Berke and Skinner.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Bailey and Condotta.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6197 Prime Sponsor, Senate Committee On Ways & Means: Creating the governor's interagency coordinating council on health disparities. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.20 RCW to read as follows:

The legislature finds that women and people of color experience significant disparities from men and the general population in education, employment, healthful living conditions, access to health care, and other social determinants of health. The legislature finds that these circumstances coupled with lower, slower, and less culturally appropriate and gender appropriate access to needed medical care result in higher rates of morbidity and mortality for women and persons of color than observed in the general population. Health disparities are defined by the national institute of health as the differences in incidence, prevalence, mortality, and burden of disease and other adverse health conditions that exist among specific population groups in the United States.

It is the intent of the Washington state legislature to create the healthiest state in the nation by striving to eliminate health disparities in people of color and between men and women. In meeting the intent of this act, the legislature creates the governor's interagency coordinating council on health disparities. This council shall create an action plan and statewide policy to include health impact reviews that measure and address other social determinants of health that lead to disparities as well as the contributing factors of health that can have broad impacts on improving status, health literacy, physical activity, and nutrition.

Sec. 2. RCW 43.20.025 and 1989 1st ex.s. c 9 s 208 are each amended to read as follows:

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

(1) "Commissions" means the Washington state commission on African-American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, and the governor's office of Indian affairs.

(2) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

~~((2))~~ (3) "Council" means the ~~(health care access and cost control)~~ governor's interagency coordinating council on health disparities, convened according to this chapter.

~~((3))~~ (4) "Department" means the department of health.

~~((4))~~ (5) "Health disparities" means the difference in incidence, prevalence, mortality, or burden of disease and other adverse health conditions, including lack of access to proven health care services that exists between specific population groups in Washington state.

(6) "Health impact review" means a review of a legislative or budgetary proposal completed according to the terms of this chapter that determines the extent to which the proposal improves or exacerbates health disparities.

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

~~((5))~~ (8) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

~~((6))~~ (9) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

~~((7))~~ (10) "Social determinants of health" means those elements of social structure most closely shown to affect health and illness, including at a minimum, early learning, education, socioeconomic standing, safe housing, gender, incidence of violence, convenient and affordable access to safe opportunities for physical activity, healthy diet, and appropriate health care services.

(11) "State board" means the state board of health created under chapter 43.20 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 43.20 RCW to read as follows:

(1) In collaboration with staff whom the office of financial management may assign, and within funds made expressly available to the state board for these purposes, the state board shall assist the governor by convening and providing assistance to the council. The council shall include one representative from each of the following groups: Each of the commissions, the state board, the department, the department of social and health services, the employment security department, the department of community, trade, and economic development, the department of corrections, the health care authority, the department of labor and industries, the department of agriculture, the department of ecology, the higher education coordinating board, the office of the insurance commissioner, the office of the superintendent of public instruction, the department of early learning, the department of transportation, the state board for community and technical colleges, the work force training and education coordinating board, and two members of the public who will represent the interests of health care consumers. The council is a class one group under RCW 43.03.220. The two public members shall be paid per diem and travel expenses in accordance with RCW 43.03.050 and 43.03.060. The council shall reflect diversity in race, ethnicity, and gender. The governor or the governor's designee shall chair the council.

(2) The council shall promote and facilitate communication, coordination, and collaboration among relevant state agencies and communities of color, and the private sector and public sector, to address health disparities. The council shall conduct public hearings, inquiries, studies, or other forms of information gathering to understand how the actions of state government ameliorate or contribute to health disparities. All state agencies must cooperate with the council's efforts.

(3) The council with assistance from the state board, shall assess through public hearings, review of existing data, and other means, and recommend initiatives for improving the availability of culturally appropriate health literature and interpretive services within public and private health-related agencies.

(4) In order to assist with its work, the council shall establish advisory committees to include members from local communities.

(5) The advisory committee shall reflect diversity in race, ethnicity, and gender.

NEW SECTION. Sec. 4. A new section is added to chapter 43.20 RCW to read as follows:

The council shall consider in its deliberations and by 2012, create an action plan for eliminating health disparities. The action plan must address, but is not limited to, the following diseases, conditions, and health indicators: Diabetes, asthma, infant mortality, HIV/AIDS, heart disease, strokes, breast cancer, cervical cancer, prostate cancer, chronic kidney disease, sudden infant death syndrome (SIDS), mental health, women's health issues, smoking cessation, oral disease, and immunization rates of children and senior citizens. The action plan shall be updated biannually. The council shall meet as often as necessary but not less than six times per calendar year. The council shall report its progress with the action plan to the governor and the legislature no later than January 15, 2008. A second report shall be presented no later than January 15, 2010, and a third report from the council shall be presented to the governor and the legislature no later than January 15, 2012. Thereafter, the governor and legislature shall require progress updates from the council every four years in odd-numbered years. The action plan shall recognize the need for flexibility.

NEW SECTION. Sec. 5. A new section is added to chapter 43.20 RCW to read as follows:

The state board shall, to the extent that funds are available expressly for this purpose, complete health impact reviews, in collaboration with the council, and with assistance that shall be provided by any state agency of which the board makes a request.

(1) A health impact review may be initiated by a written request submitted according to forms and procedures proposed by the council and approved by the state board before December 1, 2006.

(2) Any state legislator or the governor may request a review of any proposal for a state legislative or budgetary change. Upon receiving a request for a health impact review from the governor or a member of the legislature during a legislative session, the state board shall deliver the health impact review to the requesting party in no more than ten days.

(3) The state board may limit the number of health impact reviews it produces to retain quality while operating within its available resources.

(4) A state agency may decline a request to provide assistance if complying with the request would not be feasible while operating within its available resources.

(5) Upon delivery of the review to the requesting party, it shall be a public document, and shall be available on the state board's web site.

(6) The review shall be based on the best available empirical information and professional assumptions available to the state board within the time required for completing the review. The review should consider direct impacts on health disparities as well as changes in the social determinants of health.

(7) The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board and affected agencies to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund.

NEW SECTION. Sec. 6. A new section is added to chapter 43.20 RCW to read as follows:

The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund.

NEW SECTION. Sec. 7. A new section is added to chapter 44.28 RCW to read as follows:

The joint committee shall conduct a review of the governor's interagency coordinating council on health disparities and its functions. The review shall be substantially the same as a sunset review under chapter 43.131 RCW. The joint committee shall present its findings to appropriate committees of the legislature by December 1, 2016."

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Appleton; Clibborn; Green; Lantz; Moeller; Morrell and Schual-Berke.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Bailey; Condotta and Skinner.

Referred to Committee on Appropriations.

February 23, 2006

E2SSB 6239 Prime Sponsor, Senate Committee On Ways & Means: Changing provisions relating to controlled substances. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

**"PART I
SUBSTANCE ABUSE REDUCTION**

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

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

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

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

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

(2) This section expires June 30, 2010.

NEW SECTION. Sec. 103. It is the intent of the legislature to provide an annual combined level of state and federal funding for multijurisdictional drug task forces and local government drug prosecution assistance at a minimum of four million dollars.

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

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

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

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

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

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

(1) Counties may establish and operate drug courts.

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

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

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

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

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

- (i) The offender would benefit from substance abuse treatment;
- (ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and
- (iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:
 - (A) That is a sex offense;
 - (B) That is a serious violent offense;
 - (C) During which the defendant used a firearm; or
 - (D) During which the defendant caused substantial or great bodily harm or death to another person.

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

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

- (1) "Court" means the superior court of the state of Washington, juvenile department.
- (2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.
- (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.
- (4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.
- (5) "Department" means the state department of social and health services.
- (6) "Child" or "children" means any person under the age of eighteen years of age.
- (7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.
- (8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.
- (9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.
- (13) "Child protective services section" means the child protective services section of the department.
- (14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.
- (15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety, including but not limited to conduct prohibited under RCW 9A.42.100. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.
- (16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.
- (17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.
- (18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.
- (19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child (~~do {does}~~) does not constitute negligent treatment or maltreatment in and of (~~themselves {itself}~~) itself.

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

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

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

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

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

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

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

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

(4) In cases where the department has offered appropriate and reasonable services under subsection (1) of this section, and the parents, guardians, or legal custodians refuse to accept or fail to obtain available and appropriate treatment or services, or are unable or unwilling to

participate in or successfully and substantially complete the treatment or services identified by the department, the department may initiate a dependency proceeding under chapter 13.34 RCW on the basis that the negligent treatment or maltreatment by the parent, guardian, or legal custodian constitutes neglect. When evaluating whether to initiate a dependency proceeding on this basis, the evidence of a parent's substance abuse as a contributing factor to the negligent treatment or maltreatment shall be given great weight.

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

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

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

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

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

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) "Vulnerable adult" includes a person:

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

(b) Found incapacitated under chapter 11.88 RCW; or

- (c) Who has a developmental disability as defined under RCW 71A.10.020; or
 - (d) Admitted to any facility; or
 - (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW;
- or
- (f) Receiving services from an individual provider.

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

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

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

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

**PART II
CLEANUP OF CONTAMINATED PROPERTY**

Sec. 201. RCW 64.44.010 and 1999 c 292 s 2 are each amended to read as follows:

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

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

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

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

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

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

~~((5))~~ (6) "Property" means any real or personal property, (site, structure, or part of a structure which) or segregable part thereof, that is involved in or affected by the unauthorized manufacture or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, boats, motor vehicles, trailers, manufactured housing, ((or)) any shop, booth, ((or)) garden, or storage shed, and all contents of the items referenced in this subsection. As used in this chapter, "property" does not include any facility defined in RCW 70.62.210 that holds a current license under RCW 70.62.220.

Sec. 202. RCW 64.44.020 and 1999 c 292 s 3 are each amended to read as follows:

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

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

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections and seizure of property as defined in RCW 69.50.505. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections and seizure of property as defined in RCW 69.50.505.

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

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

Sec. 203. RCW 64.44.070 and 1999 c 292 s 8 are each amended to read as follows:

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

(2) The department shall adopt rules for decontamination of a property used as an illegal drug laboratory and methods for the testing of ground water, surface water, soil, and septic tanks for contamination. The rules shall establish decontamination standards for hazardous chemicals, including but not limited to methamphetamine, lead, mercury, and total volatile organic compounds. The department shall also adopt rules pertaining to independent third party sampling to verify satisfactory decontamination of property deemed contaminated and unfit for use. For the purposes of this section, an independent third party sampler is a person who is not an employee, agent, representative, partner, joint venturer, shareholder, or parent or subsidiary company of the clandestine drug laboratory decontamination contractor, the contractor's company, or property owner.

NEW SECTION. Sec. 204. The department of community, trade, and economic development shall report to the legislature on the feasibility of providing incentives and protections to landlords to encourage housing rentals to recovering substance abusers or those convicted of drug crimes. A final report must be submitted to the appropriate committees of the legislature by January 1, 2007.

PART III CRIMINAL SANCTIONS AND PROCEDURE

Sec. 301. RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read as follows:

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

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

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the

sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

Sec. 302. RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

- (a) Whether the offender suffers from drug addiction;
 - (b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;
 - (c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and
 - (d) Whether the offender and the community will benefit from the use of the alternative.
- (3) The examination report must contain:
- (a) Information on the issues required to be addressed in subsection (2) of this section; and
 - (b) A proposed treatment plan that must, at a minimum, contain:
 - (i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;
 - (ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;
 - (iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and
 - (iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

(a) Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d) Pay all court-ordered legal financial obligations;

(e) Perform community restitution work;

(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions.

(8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(10) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 303. RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW ~~((or))~~, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and ~~((71.34.225))~~ 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, ~~((71.34.225))~~ 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

NEW SECTION. Sec. 304. The Washington institute for public policy shall conduct a study of criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The institute shall report to the legislature on any criminal sentencing increases

necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington. The report shall be completed by January 1, 2007.

NEW SECTION. Sec. 305. The Washington institute for public policy shall conduct a study of the drug offender sentencing alternative. The institute shall study recidivism rates for offenders who received substance abuse treatment while in confinement as compared to offenders who received treatment in the community or received no treatment. The institute shall report to the legislature by January 1, 2007.

**PART IV
MISCELLANEOUS**

NEW SECTION. Sec. 401. Part headings used in this act are no part of the law.

NEW SECTION. Sec. 402. If specific funding for the purposes of section 113 of this act, referencing this act and section 113 of this act by bill or chapter number and section number, is not provided by June 30, 2006, in the omnibus appropriations act, section 113 of this act is null and void.

NEW SECTION. Sec. 403. Section 109 of this act expires January 1, 2007.

NEW SECTION. Sec. 404. Sections 110 and 111 of this act take effect January 1, 2007."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 22, 2006

SSB 6257 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Exempting guest services or crowd management employees from the requirements of chapter 18.170 RCW. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 2, line 2, after "officer" insert ". For purposes of this subsection, "guest services or crowd management employees" include ushers, ticket takers, parking lot attendants, and other persons employed to perform similar job duties as identified by department rules adopted in consultation with interested parties"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6308 Prime Sponsor, Senate Committee On Human Services & Corrections: Creating a joint select committee on offenders programs, sentencing, and supervision. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that "good time" should be productive time, especially for those incarcerated in Washington's criminal justice facilities. The legislature finds that it is important to the safety of the public and to rehabilitation of offenders that changes be considered to other programs offered in prisons and in the community. The legislature further finds that reforms to sentencing and supervision of offenders returning to the community may enhance public safety, lower recidivism, and reduce crime and victimization. Therefore, the legislature intends to create a joint legislative task force on offenders programs, sentencing, and supervision to provide findings and recommendations for the 2007 legislative session.

NEW SECTION. Sec. 2. (1) A joint legislative task force on offenders programs, sentencing, and supervision is established, with members as provided in this subsection.

(a) The president of the senate shall appoint two members from each of the two largest caucuses of the senate, with at least one member being a member of the senate human services and corrections committee;

(b) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives, with at least one member being a member of the house criminal justice and corrections committee;

(c) The governor shall appoint the following members:

(i) The attorney general, or the attorney general's designee;

(ii) The secretary of corrections, or the secretary's designee;

(iii) The executive director of the sentencing guidelines commission, or the director's designee;

(d) In addition, the joint legislative task force, where feasible, may consult with individuals representing the following:

(i) Superior court judges;

(ii) Mental health treatment providers who provide alcohol and substance abuse counseling;

(iii) Mental health treatment providers who provide medical assistance services to offenders;

(iv) Counties;

(v) Cities;

(vi) Crime victims;

(vii) Prosecuting attorneys;

(viii) Criminal defense lawyers;

(ix) Faculty members who educate incarcerated offenders;

(x) Faculty members who educate released offenders;

(xi) Community corrections officers;

(xii) Labor organizations representing correctional officers who work in adult correctional facilities;

(xiii) Multifamily housing;

(xiv) City local law enforcement;

(xv) County law enforcement;

(xvi) Ex-offenders;

(xvii) A faith-based organization that provides outreach or services to offenders;

(xviii) Washington businesses; and

(xix) Nonprofit organizations providing work force training to released offenders.

(2) The joint legislative task force shall be cochaired by a legislative member from the senate and a legislative member from the house of representatives, as chosen by the task force.

(3) The joint legislative task force shall review and make recommendations regarding:

(a) The type of offender that would benefit most in terms of personal achievement, responsibility, and community safety, by having the opportunity to receive enhanced training and education while in prison;

(b) The types of training and educational programs that would provide the greatest return on investment with regard to offender achievement, responsibility, and community;

(c) Changes to the sentencing law and policies related to "good time" or early release, that would encourage incarcerated offenders to participate in training and programs that will increase the likelihood that they will be able to support themselves when they leave prison and reduce recidivism;

(d) A method for evaluating the return on the investment and determining from frontline department of corrections staff and community partners, whether the changes are improving personal responsibility on the part of the offender and reducing crime in the community; and

(e) Changes to community supervision that would provide greater safety to the public and incentives for prisons in adhering to treatment, educational goals, and reducing recidivism.

(4) The joint legislative task force 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, 2006.

(5) The joint legislative task force may, where feasible, consult with individuals from the public and private sector in carrying out its duties under this section.

(6)(a) The joint legislative task force shall use legislative facilities, and staff support shall be provided by senate committee services, the house of representatives office of program research, and the Washington state institute for public policy. The department of corrections and the sentencing guidelines commission shall cooperate with the joint legislative task force, and shall provide information as the task force reasonably requests.

(b) Nonlegislative members of the joint legislative task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(c) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(d) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(7) This section expires December 1, 2006."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6319 Prime Sponsor, Senate Committee On Ways & Means: Changing provisions for sex offender registration. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6320 Prime Sponsor, Senate Committee On Human Services & Corrections: Revising the model policy for disclosure of sex offender information. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6322 Prime Sponsor, Senate Committee On Human Services & Corrections: Relating to electronic monitoring of sex offenders. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.713 and 2001 2nd sp.s. c 12 s 304 are each amended to read as follows:

(1) When an offender is sentenced under RCW 9.94A.712, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions of the offender's community custody based upon the risk to community safety. In addition, the department shall make a recommendation with regard to, and the board may require the offender to participate in, rehabilitative programs, or otherwise perform affirmative conduct, and obey all laws. The department may recommend and the board may impose electronic monitoring as a condition of community custody for the offender. The department shall, with available resources, carry out any monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning technology. The board must consider and may impose department-recommended conditions.

(2) The department may not recommend and the board may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions. The board shall notify the offender in writing of any such conditions or modifications.

(3) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(4) If an offender violates conditions imposed by the court, the department, or the board during community custody, the board or the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.95.435.

(5) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (a) The crime of conviction;
- (b) The offender's risk of reoffending; or
- (c) The safety of the community.

(6) An offender released by the board under RCW 9.95.420 shall be subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board shall be subject to the provisions of RCW 9.95.425 through 9.95.440.

(7) If the department finds that an emergency exists requiring the immediate imposition of conditions of release in addition to those set by the board under RCW 9.95.420 and subsection (1) of this section in order to prevent the offender from committing a crime, the department may impose additional conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately

after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board under subsection (1) of this section within seven working days.

Sec. 2. RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, 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, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws. The department may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. The department shall, with available resources, carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW to read as follows:

Local governments, their subdivisions and employees, the department of corrections and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving offenders who are placed on electronic monitoring, unless it is shown that an employee acted with gross negligence or bad faith."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6325 Prime Sponsor, Senate Committee On Human Services & Corrections: Establishing residence restrictions for sex offenders. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Kirby and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Strow.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6326 Prime Sponsor, Senate Committee On Ways & Means: Providing a source of funding for customized work force training. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass. Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

MINORITY recommendation: Do not pass. Signed by Representatives Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri and Dunn.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6336 Prime Sponsor, Senate Committee On Human Services & Corrections: Requesting a federal exemption regarding the definition of income for public assistance. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The department of social and health services shall seek exemptions and waivers from and amendments to federal statutes, rules, and regulations necessary to exempt housing allowances and housing vouchers received by military personnel from income when determining eligibility for food benefits and for medical assistance programs that provide nurse home visitation services to pregnant women and infants. The department shall report to the legislature by September 1, 2007, regarding the efforts and progress made in obtaining exemptions and waivers under this section.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Referred to Committee on Appropriations.

February 23, 2006

SB 6344 Prime Sponsor, Senator Kline: Monitoring personal information collected by state agencies. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass. Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Miloscia.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt and McDermott.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6359 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Ensuring employers do not evade their contribution rate. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6362 Prime Sponsor, Senate Committee On Government Operations & Elections: Modifying voter registration provisions. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended:

On page 4, line 27, after "attorney" strike all material through "day" on line 28 and insert "at any time"

On page 4, line 29, after "day" insert "regarding a voter who presents himself or herself to vote at the poll site"

Signed by Representatives Haigh, Chairman; Green, Vice Chairman; Hunt; McDermott and Miloscia.

MINORITY recommendation: Do not pass. Signed by Representatives Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Schindler and Sump.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6366 Prime Sponsor, Senate Committee On Ways & Means: Concerning preparation and response to pandemic influenza. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that certain threats to public health do not respect the jurisdictional boundaries of local public health districts and departments. Such threats require an efficient, well-coordinated response by local health jurisdictions in order to protect the health of local residents as well as the health of all Washingtonians. These threats place demands on public health to be more vigilant than ever and to respond quickly and decisively. Rapid responses of substantial magnitude are no longer a goal for the future, but a necessity for preserving the health of society.

For over a decade, the public health improvement plan process has brought state and local health jurisdictions together to achieve a partnership that has produced standards of quality and best practices that are a national model. The standards developed by the public health improvement partnership have focused largely on formal documentation of administrative processes by state and local health jurisdictions. This is the necessary first step to measuring the performance of public health, but is not yet sufficient for measuring the outcomes of these improvements in public health operations. Performance measures are needed immediately to ascertain the extent to which the residents of the state of Washington have a consistent and adequate level of protection from communicable diseases including a pandemic disease outbreak.

The legislature recognizes the magnitude of the demands placed on public health in today's society and the strides that it has made toward holding itself accountable for the way in which it performs. The legislature finds that enhanced funding and enhanced performance measures are immediately necessary in order for public health to perform at levels that will protect all of the residents of Washington.

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

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

(2) "Local health jurisdiction" means a local health department as established under chapter 70.05 RCW, a combined city-county health department as established under chapter 70.08 RCW, or a health district established under chapter 70.05 or 70.46 RCW.

(3) "Performance measure" means a standard that establishes a benchmark against which a local health jurisdiction's performance can be measured that is as closely associated with a desired outcome as possible.

(4) "Secretary" means the secretary of health.

NEW SECTION. Sec. 3. The secretary shall:

(1) By June 15, 2006, establish a template, consistent with requirements and performance standards established by the United States department of health and human services, to define preparedness activities that should be undertaken prior to a pandemic disease outbreak or other communicable disease outbreak; describe the response, coordination, and decision-making structure among all local public health, health care, and response organizations; and define the roles and responsibilities of all local public health, health care, and response organizations during all phases of a pandemic disease outbreak or other communicable disease outbreak. The template shall be used by each local health jurisdiction to assess their capacity to respond to a pandemic disease outbreak or other communicable disease outbreak that poses a significant risk of a statewide health hazard. The template must include explicit criteria and performance or outcome measures related to the activities identified in section 5 of this act, and reflect the relative priorities among the activities for purposes of local health jurisdiction planning and implementation efforts. The performance measures included in the template must provide a means to assess operations of the department and each local health jurisdiction with respect to providing an adequate and consistent level of statewide protection for the residents of the state in the event of a pandemic disease outbreak or other communicable disease outbreak. In developing these measures, the secretary shall consider performance measures developed by government agencies and private organizations. The secretary shall attempt to develop these performance measures in categories consistent with the process standards applicable to protection from communicable disease as identified in the public health improvement plan under RCW 43.70.520 and 43.70.580, to the extent that these measures are consistent with federal standards defined by the United States department of health and human services;

(2) Develop a process for assessing the compliance of the department and each local health jurisdiction with the performance measures developed under subsection (1) of this section at least biannually;

(3) Develop a process for distributing the funds provided in section 8(2) of this act on or before July 1, 2006, to local health jurisdictions for development of their pandemic flu and communicable disease outbreak preparedness and response plans, based upon a formula developed by the secretary;

(4) Develop a process for approving or rejecting pandemic flu and communicable disease outbreak preparedness and response plans developed by local health jurisdictions under section 5 of this act by November 30, 2006.

NEW SECTION. Sec. 4. Each local health jurisdiction must substantially comply with the performance measures established under section 3 of this act by July 1, 2007, and maintain such substantial compliance.

NEW SECTION. Sec. 5. By December 1, 2006, each jurisdiction shall submit a pandemic flu and communicable disease outbreak preparedness and response plan in consultation with appropriate public and private sector partners, including departments of emergency management, law enforcement, school districts, hospitals and medical professionals, tribal governments, and business organizations. The plan shall include the specific activities that it will undertake to meet the standards included in the template developed by the secretary under section 3 of this act by June 30, 2007, and a detailed explanation of the expenditures needed to implement the plan. At a minimum, each plan shall address:

(1) Public education and citizen preparedness, including improvements in the ability of the public to employ universal infectious disease prevention practices, maintain emergency supplies, and respond to a community public health emergency;

(2)(a) Disease surveillance, investigation, and rapid response, including health care provider compliance with reportable conditions requirements;

(b) Investigation and analysis of reported illness or outbreaks; and

(c) Disease control response;

(3) Communications systems, including improving effectiveness of communication, the availability of specialized communications equipment, and access by health officials and community leaders to mass media outlets;

(4) Medical system mobilization, including improving the linkages and coordination of emergency responses across health care organizations, contracts with community facilities to serve as emergency alternative sites during an emergency, availability of trained personnel, conducting practice drills and access to medical supplies and equipment, plans and protocols to rapidly administer vaccine to large populations and monitor vaccine effectiveness and safety, and guidelines for the appropriate use of medications to treat and prevent influenza or other communicable diseases;

(5) Community-level disease containment capability including increasing adherence to public health advisories, voluntary social isolation during disease outbreaks, and health officer orders related to quarantines;

(6) Maintenance of social order and essential public services, including improving linkages with the local emergency incident command structure and maintenance of essential service and the development of the legal documents necessary to facilitate and support the necessary government response.

Upon approval of a local health jurisdiction's pandemic flu and communicable disease outbreak preparedness and response plan by the secretary, the secretary shall distribute funds provided in section 8(3) of this act for implementation of the plan, based upon a formula developed by the secretary.

NEW SECTION. Sec. 6. The department shall provide implementation support and assistance to a local health jurisdiction when the secretary or the local health jurisdiction has significant concerns regarding a jurisdiction's progress toward implementing its plan. Nothing in this section is intended to limit the authority of the secretary to act under RCW 43.70.130(4).

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 8.** (1) The sum of three hundred thousand dollars is appropriated for fiscal year 2007, from the general fund to the department of health for activities by the department necessary to implement this act.

(2) The sum of one million dollars is appropriated for the fiscal year 2007, from the general fund to the department of health for distribution to local health jurisdictions for development of pandemic flu and communicable disease outbreak preparedness and response plans approved by the department as provided in section 5 of this act.

(3) The sum of four million dollars is appropriated for the fiscal year 2007, from the general fund to the department of health for distribution to local health jurisdictions for implementation of spending plans approved by the department under section 4 of this act.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Appleton; Clibborn; Green; Lantz; Moeller; Morrell and Schual-Berke.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander; Bailey; Condotta and Skinner.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6367 Prime Sponsor, Senate Committee On Government Operations & Elections: Requiring voluntary measures be included in critical area development regulations. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that there is a broadly held ethic among the citizens of the state that includes appreciation of nature and environmental values, and that citizens are willing to voluntarily undertake activities to protect and enhance environmental values at their homes and gardens, on land on which they live or work, and in their communities. The legislature finds that voluntary activities can be invaluable toward achieving the overall goal of protecting and enhancing the environment and that such activities should be given recognition as highly valued endeavors.

The legislature finds that there are successful programs that can be used as models, such as the "Shore Stewards Guide for Shoreline Living" jointly prepared by university extension faculty and local governments, that provide information on a broad array of actions that citizens can undertake that fits their unique conditions and interests. The legislature finds that better enabling citizens to undertake voluntary activities can result in improved protection for the environment and enhance environmental quality and our quality of life.

The purpose of this act is to encourage counties and cities to expand the availability and use of nonregulatory measures for existing and nonconforming uses as a component of ordinances under RCW 36.70A.130 adopted after the effective date of this section and to encourage an increase in the information and resources to the public to foster voluntary activities by citizens to improve their environment.

Sec. 2. RCW 36.70A.070 and 2005 c 360 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including

single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities and uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources. Measures to protect critical areas should also include voluntary measures, incentives, and educational programs, to the extent to which such voluntary approaches can be effective; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(~~((14))~~) (15). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and

communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the six-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, RCW 35.58.2795 for public transportation systems, and RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element shall include: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, work force, housing, and

natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130."

Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan; Takko and Woods.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6377 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Changing the regulation of milk and milk products. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that chapter 15.36 RCW includes the regulation of raw milk and raw milk products including arrangements known as "cow shares" in which one or more individuals purchase one or more shares in a milk-producing animal in return for a portion of the milk that is produced. The legislature also finds that the agencies charged with protecting public health and safety need to have strong enforcement mechanisms and be able to respond rapidly, comprehensively, and effectively. It is not the intent of this act to prohibit either the sale of raw milk or cow share or similar arrangements by producers and processors who are properly licensed under chapter 15.36 RCW.

Sec. 2. RCW 15.36.012 and 1999 c 291 s 1 are each amended to read as follows:

For the purpose of this chapter:

"Adulterated milk" means milk that is deemed adulterated under appendix L of the PMO.

"Colostrum milk" means milk produced within ten days before or until practically colostrum free after parturition.

"DMO" means supplement I, the recommended sanitation ordinance for grade A condensed and dry milk products and condensed and dry whey, to the PMO published by the United States public health service, food and drug administration.

"Dairy farm" means a place or premises where one or more cows, goats, or other mammals are kept, a part or all of the milk or milk products from which is sold or offered for sale ((to a milk processing plant, transfer station, or receiving station)).

"Dairy technician" means any person who takes samples of milk or cream or fluid derivatives thereof, on which sample tests are to be made as a basis of payment, or who grades, weighs, or measures milk or cream or the fluid derivatives thereof, the grade, weight, or measure to be used as a basis of payment, or who operates equipment wherein milk or products thereof are pasteurized.

"Degrade" means the lowering in grade from grade A to grade C.

"Department" means the state department of agriculture.

"Director" means the director of agriculture of the state of Washington or the director's duly authorized representative.

"Grade A milk processing plant" means any milk processing plant that meets all of the standards of the PMO to process grade A pasteurized milk or milk products.

"Grade A pasteurized milk" means grade A raw milk that has been pasteurized.

"Grade A raw milk" means raw milk produced upon dairy farms conforming with all of the items of sanitation contained in the PMO, in which the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter as determined in accordance with RCW 15.36.201.

"Grade A raw milk for pasteurization" means raw milk produced upon dairy farms conforming with all of the same items of sanitation contained in the PMO of grade A raw milk, and the bacterial plate count, as delivered from the farm, does not exceed eighty thousand per milliliter as determined in accordance with RCW 15.36.201.

"Grade C milk" is milk that violates any of the requirements for grade A milk but that is not deemed to be adulterated.

"Milk" means the lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy cows, goats, or other mammals.

"Milk hauler" means a person who transports milk or milk products in bulk to or from a milk processing plant, receiving station, or transfer station.

"Milk processing" means the handling, preparing, packaging, or processing of milk in any manner in preparation for sale as food, as defined in chapter 69.04 RCW. Milk processing does not include milking or producing milk on a dairy farm that is shipped to a milk processing plant for further processing.

"Milk processing plant" means a place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, aseptically processed, bottled, or prepared for distribution, except an establishment that merely receives the processed milk products and serves them or sells them at retail.

"Milk products" means the product of a milk manufacturing process.

"Misbranded milk" means milk or milk products that carries a grade label unless such grade label has been awarded by the director and not revoked, or that fails to conform in any other respect with the statements on the label.

"Official laboratory" means a biological, chemical, or physical laboratory that is under the direct supervision of the state or a local regulatory agency.

"Officially designated laboratory" means a commercial laboratory authorized to do official work by the department, or a milk industry laboratory officially designated by the department for the examination of grade A raw milk for pasteurization and commingled milk tank truck samples of raw milk for antibiotic residues and bacterial limits.

"PMO" means the grade "A" pasteurized milk ordinance published by the United States public health service, food and drug administration.

"Pasteurized" means the process of heating every particle of milk or milk product in properly designed and operated equipment to the temperature and time standards specified in the PMO.

"Person" means an individual, partnership, firm, corporation, company, trustee, or association.

"Producer" means a person or organization who operates a dairy farm and provides, sells, or offers milk for sale ~~((to a milk processing plant, receiving station, or transfer station))~~.

"Receiving station" means a place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

"Sale" means selling, offering for sale, holding for sale, preparing for sale, ~~distributing, dispensing, delivering, supplying,~~ trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

"Transfer station" means any place, premises, or establishment where milk or milk products are transferred directly from one milk tank truck to another.

"Wash station" means a place, facility, or establishment where milk tanker trucks are cleaned in accordance with the standards of the PMO.

Sec. 3. RCW 15.36.111 and 1999 c 291 s 6 are each amended to read as follows:

(1) The director shall inspect all dairy farms and all milk processing plants prior to issuance of a license under this chapter and at a frequency determined by the director by rule: PROVIDED, That the director may accept the results of periodic industry inspections of producer dairies if such inspections have been officially checked periodically and found satisfactory. In case the director discovers the violation of any item of grade requirement, he or she shall make a second inspection after a lapse of such time as he or she deems necessary for the defect to be remedied, but not before the lapse of three days, and the second inspection shall be used in determining compliance with the grade requirements of this chapter. Whenever there is any violation of the same requirement of this chapter on the second inspection, the director may initiate proceedings to degrade, suspend the license, or assess a civil penalty.

(2) One copy of the inspection report detailing the grade requirement violations shall be posted by the director in a conspicuous place upon an inside wall of the milk tank room or a mutually agreed upon location on a dairy farm or given to an operator of the milk processing plant, and said inspection report shall not be defaced or removed by any person except the director. Another copy of the inspection report shall be filed with the records of the director.

(3) Every milk producer and milk processing plant shall permit the director access to all parts of the establishment during the working hours of the producer or milk processing plant, which shall at a minimum include the hours from 8 a.m. to 5 p.m., and every milk processing plant shall furnish the director, upon his or her request, for official use only, samples of any milk product for laboratory analysis, and a true statement of the actual quantities of milk and milk products of each grade purchased and sold ~~((together with a list of all sources, records of inspections and tests, and recording thermometer charts))~~.

(4) The director shall have access to all parts of a dairy farm or facility that is not licensed as a milk producer or milk processing plant if the director has information that the dairy farm or facility is engaged in activities that require a license under this chapter. The director shall have access during the working hours of the dairy farm or facility, which shall at a minimum include the hours from 8 a.m. to 5 p.m. The director shall have the authority to take samples of milk or any milk products and water and environmental samples for laboratory analysis. For all establishments subject to this subsection and subsection (3) of this section, the director shall have access to records including, but not limited to, customer lists, milk production records, temperature records, and records of inspections and tests.

(5) If the director is denied access to a dairy farm or milk processing plant, the director may apply to a court of competent jurisdiction for a search warrant authorizing access to the property and facilities for purposes of conducting tests and inspections, taking samples, and examining records. To show that access is denied, the director shall file with the court an affidavit or declaration containing a description of his or her attempts to notify and locate the owner or the owner's agent and to secure consent. Upon application, the court may issue a search warrant for the purposes requested.

Sec. 4. RCW 15.36.511 and 1999 c 291 s 24 are each amended to read as follows:

(1) It is unlawful for any person to:

~~((+))~~ (a) Interfere with or obstruct any person in the performance of official duties under this chapter;

~~((=))~~ (b) Employ a tester, sampler, weigher, grader, or pasteurizer who is not licensed as a dairy technician;

~~((~))~~ (c) Alter or tamper with a seal placed by the director; ~~((or~~

~~(4))~~ (d) Alter or tamper with a sample of milk or milk products taken or sealed by the director; or
 (e) Operate as a milk producer or milk processing plant without obtaining a license from the director.

(2) Except as provided under RCW (~~15.35.131~~) 15.36.131, it is unlawful for a milk processing plant to accept milk from a person not licensed as a producer or milk processor.

NEW SECTION. Sec. 5. A new section is added to chapter 15.36 RCW to read as follows:

The director may issue a cease and desist order to any person whom the director has reason to believe is engaged in an activity for which a license is required by this chapter. The person to whom such notice is issued may request an adjudicative proceeding to contest the order.

NEW SECTION. Sec. 6. A new section is added to chapter 15.36 RCW to read as follows:

(1) When the director has probable cause to believe that milk or milk products are being sold, distributed, stored, or transported in violation of this chapter or rules adopted under this chapter, the director may issue and serve upon the owner or custodian of the milk or milk products a written notice of embargo and order prohibiting the sale of the milk or milk products. If the owner or custodian is not available for service, the director may attach the notice of embargo and order prohibiting sale to the container holding the milk or milk products. The milk or milk products shall not be sold, used, or removed until this chapter has been complied with and the milk or milk products have been released from embargo under conditions specified by the director in writing.

(2) The department may issue a destruction and disposal order covering any embargoed milk or milk products. The destruction and disposal shall occur at the cost of the owner or custodian.

(3) The person to whom the notice of embargo and order prohibiting sale was issued or the person to whom a destruction or disposal order was issued may request an adjudicative proceeding to contest the order.

(4) A state court shall not allow the recovery of damages from an administrative action under this section if the court finds there was probable cause for the action.

NEW SECTION. Sec. 7. A new section is added to chapter 15.36 RCW to read as follows:

(1) It is unlawful for any person to sell raw milk from a dairy farm that is not licensed as a milk producer or a milk processing plant under this chapter.

(2) The sale of raw milk from a dairy farm that is not licensed as a milk producer and a milk processing plant under this chapter constitutes:

(a) For the first offense, a misdemeanor; and

(b) For the second and subsequent offenses, a gross misdemeanor punishable according to chapter 9A.20 RCW.

(3) Neither the issuance of a cease and desist order nor payment of a civil penalty relieves the person so selling raw milk from criminal prosecution, but the remedy of a cease and desist order or civil penalty is in addition to any criminal liability.

NEW SECTION. Sec. 8. (1) The legislature finds that small-scale dairies have varying degrees of familiarity with statutory and regulatory requirements and the range of acceptable methods they can use to meet those requirements. The legislature therefore directs the department of agriculture to convene a work group to identify and help resolve obstacles faced by small-scale dairies in their efforts to become licensed as milk producers and milk processing plants.

(2) The director of the department of agriculture shall include in the work group representatives of small-scale and conventional dairies, public health officials, the cooperative extension, industry associations, consumers, and other stakeholders as the director deems appropriate. Representatives from the department's food safety and small farms direct marketing programs shall staff the work group.

(3) The work group shall:

(a) Identify barriers to small-scale dairies in achieving licensing;

(b) Examine potential solutions to those barriers that are size-appropriate and economically feasible;

(c) Identify sources of technical assistance and information on best management practices; and

(d) Recommend other actions that will assist small-scale dairies to become licensed.

(4) By December 1, 2006, the department of agriculture and representatives of the work group shall report on their work and recommendations to appropriate standing committees of the legislature.

NEW SECTION. Sec. 9. The sum of thirty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2007, from the general fund to the department of agriculture for the purposes of section 8 of this act."

Correct the title.

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Skinner, Assistant Ranking Minority Member; Appleton; Bailey; Chase; Clibborn; Grant; Haler; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Kristiansen, Ranking Minority Member; Blake; Buri; Dunn; Holmquist and Wallace.

Passed to Committee on Rules for second reading.

ESSB 6396 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Modifying the accumulation and use of sick leave accrued by part-time faculty. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass as amended:

On page 2, after line 33, strike all of section 2

Correct the title.

On page 3, after line 1, insert:

"NEW SECTION. Sec. 2. This act applies only to leave accumulated on or after the effective date of this act."

Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Dunn; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6406 Prime Sponsor, Senate Committee On Human Services & Corrections: Including assault of a child in the second degree in the list of two-strike offenses. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6411 Prime Sponsor, Senator Doumit: Allowing six-year long collective bargaining agreements. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 17, after "majority" strike "vote of the public employees within the bargaining unit" and insert "~~((vote of the public employees within the bargaining unit))~~ of the valid ballots cast"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6417 Prime Sponsor, Senate Committee On Judiciary: Changing provisions relating to animal cruelty. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6427 Prime Sponsor, Senate Committee On Government Operations & Elections: Concerning schedules for the review of comprehensive plans and development regulations. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. There is a statewide interest in maintaining coordinated planning as called for in the legislative findings of the growth management act, RCW 36.70A.010. It is the intent of the legislature that smaller, slower-growing counties and cities be provided with flexibility in meeting the requirements to review local plans and development regulations in RCW 36.70A.130, while ensuring coordination and consistency with the plans of neighboring cities and counties.

Sec. 2. RCW 36.70A.130 and 2005 c 423 s 6 and 2005 c 294 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsections (5) and (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; ~~(and)~~

(iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months; and

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. Except as provided in subsections (5) and (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(c) A city that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities ~~((in compliance))~~: (a) Complying with the schedules in this section ((and those counties and cities)); (b) demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or (c) complying with the extension provisions of subsection (5)(b) or (c) of this section may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is ~~((deemed to be))~~ making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8) Except as provided in subsection (5)(b) and (c) of this section:

(a) Counties and cities required to satisfy the requirements of this section according to the schedule established by subsection (4)(b) through (d) of this section may comply with the requirements of this section for development regulations that protect critical areas one year after the dates established in subsection (4)(b) through (d) of this section~~((:));~~

(b) Counties and cities complying with the requirements of this section one year after the dates established in subsection (4)(b) through (d) of this section for development regulations that protect critical areas shall be deemed in compliance with the requirements of this section~~((:));~~ and

(c) This subsection (8) applies only to the counties and cities specified in subsection (4)(b) through (d) of this section, and only to the requirements of this section for development regulations that protect critical areas that must be satisfied by December 1, 2005, December 1, 2006, and December 1, 2007.

(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section, or the extension provisions of subsection (5)(b) or (c) of this section, may receive preferences for grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030.

(10) Until December 1, 2005, and notwithstanding subsection (7) of this section, a county or city subject to the time periods in subsection (4)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and development regulations is deemed to be making substantial progress towards compliance."

Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan; Takko and Woods.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6460 Prime Sponsor, Senate Committee On Ways & Means: Increasing penalties for crimes committed with sexual motivation. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 23, 2006

E2SSB 6480 Prime Sponsor, Senate Committee On Transportation: Modifying public works apprenticeship utilization requirements. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 6497 Prime Sponsor, Senate Committee On Ways & Means: Revising felony sentence ranges. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that statutorily granted judicial discretion in sentencing has been limited by appellate court decisions requiring jury findings prior to imposing sentences above the standard sentence ranges. The legislature further finds that expanding the sentencing ranges is the most appropriate method of increasing judicial discretion while retaining commensurate and appropriate punishment for similarly situated offenders as well as assuring the frugal use of state and local government resources. The legislature intends to provide judges with increased discretion and decrease the need to impose exceptional sentences. The legislature further intends that sentencing courts have the authority and power to adopt suitable processes of proceeding in cases where exceptional sentences are appropriate to the extent that such procedures are mandated by the United States Constitution or Washington state Constitution.

Sec. 2. RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read as follows:

((TABLE 1
Sentencing Grid

SERIOUSNESS LEVEL	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XVI	Life Sentence without Parole/Death Penalty									
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320-	333-	347-	361-	374-	388-	416-	450-	493-	548-
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220-	234-	244-	254-	265-	275-	295-	316-	357-	397-
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164-	178-	192-	205-	219-	233-	260-	288-	342-	397-
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-

	123	136	147	160	171	184	216	236	277	318
X+	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
*	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
H	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VH	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VH	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
V+	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14-	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+	17-	22-	33-	43-	51-
	3-	8-	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+	14-	17-	22-	33-	43-
	Days	6-	9-	12	14	18	22	29	43	57
I		3m	4m	5m	6m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+	14-	17-	22-
	Days	Days	5-	6-	8-	12	14	18	22	29))

TABLE 1
Sentencing Grid

SERIOUSNESS
LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9	10 or more
XVI	Life Sentence without Parole/Death Penalty										
XV	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-	411-
	352	367	383	402	417	437	458	496	543	603	862
XIV	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-	298-
	220	234	244	254	265	275	295	316	357	397	595
XIII	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-	298-

	<u>180</u>	<u>196</u>	<u>212</u>	<u>226</u>	<u>241</u>	<u>257</u>	<u>286</u>	<u>316</u>	<u>376</u>	<u>437</u>	<u>624</u>
XII	<u>93-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>129-</u>	<u>138-</u>	<u>162-</u>	<u>178-</u>	<u>209-</u>	<u>240-</u>	<u>240-</u>
	<u>137</u>	<u>150</u>	<u>163</u>	<u>176</u>	<u>189</u>	<u>204</u>	<u>238</u>	<u>260</u>	<u>306</u>	<u>351</u>	<u>500</u>
XI	<u>78-</u>	<u>86-</u>	<u>95-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>146-</u>	<u>159-</u>	<u>185-</u>	<u>210-</u>	<u>210-</u>
	<u>113</u>	<u>126</u>	<u>139</u>	<u>150</u>	<u>161</u>	<u>176</u>	<u>214</u>	<u>233</u>	<u>270</u>	<u>309</u>	<u>442</u>
X	<u>51-</u>	<u>57-</u>	<u>62-</u>	<u>67-</u>	<u>72-</u>	<u>77-</u>	<u>98-</u>	<u>108-</u>	<u>129-</u>	<u>149-</u>	<u>149-</u>
	<u>79</u>	<u>89</u>	<u>96</u>	<u>104</u>	<u>111</u>	<u>120</u>	<u>151</u>	<u>168</u>	<u>201</u>	<u>230</u>	<u>312</u>
IX	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>51-</u>	<u>57-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>129-</u>	<u>129-</u>
	<u>48</u>	<u>57</u>	<u>64</u>	<u>72</u>	<u>79</u>	<u>89</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>201</u>	<u>270</u>
VIII	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>108-</u>
	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>72</u>	<u>104</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>225</u>
VII	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>87-</u>
	<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>135</u>	<u>180</u>
VI	<u>12 +-</u>	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>46-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>77-</u>
	<u>19</u>	<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>72</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>157</u>
V	<u>6-</u>	<u>12+ -</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>41-</u>	<u>51-</u>	<u>62 -</u>	<u>72-</u>	<u>72-</u>
	<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>64</u>	<u>79</u>	<u>96</u>	<u>111</u>	<u>120</u>
IV	<u>3-</u>	<u>6-</u>	<u>12+ -</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>53-</u>	<u>63-</u>	<u>63-</u>
	<u>9</u>	<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>66</u>	<u>83</u>	<u>97</u>	<u>120</u>
III	<u>1-</u>	<u>3-</u>	<u>4-</u>	<u>9-</u>	<u>12+ -</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>51-</u>	<u>51-</u>
	<u>3</u>	<u>8</u>	<u>12</u>	<u>12</u>	<u>19</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>79</u>	<u>120</u>
II	<u>0-90</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+ -</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>43-</u>
	<u>Days</u>	<u>6</u>	<u>9</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>120</u>
I	<u>0-60</u>	<u>0-90</u>	<u>2-</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+ -</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>22-</u>
	<u>Days</u>	<u>Days</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>60</u>

Numbers in the first and second horizontal rows of each seriousness category ((represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows)) represent standard sentence ranges in months, or in days if so designated. 12 + equals one year and one day.

Sec. 3. RCW 9.94A.535 and 2005 c 68 s 3 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The offender score due to other current offenses, as opposed to prior offenses, results in a presumptive sentence that is clearly excessive.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

~~((a))~~ The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

~~((b))~~ The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

~~(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.~~

~~(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.)~~

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

- (q) The defendant demonstrated or displayed an egregious lack of remorse.
- (r) The offense involved a destructive and foreseeable impact on persons other than the victim.
- (s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.
- (t) The defendant committed the current offense shortly after being released from incarceration.
- (u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.
- (v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.
- (w) The defendant committed the offense against a victim who was acting as a good samaritan.
- (x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.
- (y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).
- (z) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.
- (aa) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.
- (bb) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

Sec. 4. RCW 9.94A.537 and 2005 c 68 s 4 are each amended to read as follows:

- (1) At any time prior to trial or entry of the guilty plea if substantial rights of the defendant are not prejudiced, the state may give notice that it is seeking a sentence above the standard sentencing range. The notice shall state aggravating circumstances upon which the requested sentence will be based.
- (2) The facts supporting aggravating circumstances shall be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts. A jury may be empaneled to find aggravating facts if the defendant pleads guilty to the underlying crime but not to the aggravating factor.
- (3) Evidence regarding any facts supporting aggravating circumstances under RCW 9.94A.535(3) (a) through (y) shall be presented to the jury during the trial of the alleged crime, unless the state alleges the aggravating circumstances listed in RCW 9.94A.535(3) (e)(iv), (h)(i), (o), or (t). If one of these aggravating circumstances is alleged, the trial court may conduct a separate proceeding if the evidence supporting the aggravating fact is not part of the res geste of the charged crime, if the evidence is not otherwise admissible in trial of the charged crime, and if the court finds that the probative value of the evidence to the aggravated fact is substantially outweighed by its prejudicial effect on the jury's ability to determine guilt or innocence for the underlying crime.
- (4) If the court conducts a separate proceeding to determine the existence of aggravating circumstances, the proceeding shall immediately follow the trial on the underlying conviction, if possible. If any person who served on the jury is unable to continue, the court shall substitute an alternate juror.
- (5) If the jury finds, unanimously and beyond a reasonable doubt, one or more of the facts alleged by the state in support of an aggravated sentence, the court may sentence the offender pursuant to RCW 9.94A.535 to a term of confinement up to the maximum allowed under RCW 9A.20.021 for the underlying conviction if it finds, considering the purposes of this chapter, that the facts found are substantial and compelling reasons justifying an exceptional sentence.
- (6) If the defendant enters a guilty plea to the charged crime or the case is remanded for a new sentencing hearing, the court may empanel a jury for the purpose of considering any aggravating circumstances alleged by the state. The trial on the aggravating circumstances should occur within ninety days of the entry of the guilty plea, or the filing of an appellate court mandate. Upon a showing of good cause, the court may extend the time for the trial on aggravating circumstances. The time limit for holding a sentencing hearing, set forth in RCW 9.94A.500, shall not begin to run until the jury renders a verdict on the aggravating circumstances.

Sec. 5. 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))~~ sixty 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 except that for any offense with an offender score of ten or more, the minimum term in the range shall be no less than twenty-five 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 exercise its duties under this section in conformity with chapter 34.05 RCW."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6502 Prime Sponsor, Senate Committee On Human Services & Corrections: Creating a statewide automated victim information and notification system. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that notifying victims of crime when their offender is released from incarceration, transferred, or served with a protective order is vital to enhancing the safety and mental well-being of a victim. In recognition of the victim's needs, some Washington state local governments have implemented a victim notification system. However, only a few local governments have implemented these systems which are presently not connected to an interoperable statewide system.

The legislature has learned that nineteen states have passed legislation to implement a statewide interoperable victim notification system. The legislature has also learned that the statewide city and county jail booking and reporting system, as created by RCW 36.28A.040, could efficiently be enhanced to include a statewide automated victim information and notification system. It is the intent of this act to provide victims throughout our state with the knowledge they need to secure their physical and mental well-being.

Sec. 2. RCW 36.28A.040 and 2001 c 169 s 3 are each amended to read as follows:

(1) No later than July 1, 2002, the Washington association of sheriffs and police chiefs shall implement and operate an electronic statewide city and county jail booking and reporting system. The system shall serve as a central repository and instant information source for offender information and jail statistical data. The system ~~((shall))~~ may be placed on the Washington state justice information network and be capable of communicating electronically with every Washington state city and county jail and with all other Washington state criminal justice agencies as defined in RCW 10.97.030.

(2) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, if a city or county jail or law enforcement agency receives state or federal funding to cover the entire cost of implementing or reconfiguring an electronic jail booking system, the city or county jail or law enforcement agency shall implement or reconfigure an electronic jail booking system that is in compliance with the jail booking system standards developed pursuant to subsection (4) of this section.

(3) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, city or county jails, or law enforcement agencies that operate electronic jail booking systems, but choose not to accept state or federal money to implement or reconfigure electronic jail booking systems, shall electronically forward jail booking information to the Washington association of sheriffs and police chiefs. At a minimum the information forwarded shall include the name of the offender, vital statistics, the date the offender was arrested, the offenses arrested for, the date and time an offender is released or transferred from a city or county jail, and if available, the mug shot. The electronic format in which the information is sent shall be at the discretion of the city or county jail, or law enforcement agency forwarding the information. City and county jails or law enforcement agencies that forward jail booking information under this subsection are not required to comply with the standards developed under subsection (4)(b) of this section.

(4) The Washington association of sheriffs and police chiefs shall appoint, convene, and manage a statewide jail booking and reporting system standards committee. The committee shall include representatives from the Washington association of sheriffs and police chiefs correction committee, the information service board's justice information committee, the judicial information system, at least two individuals who serve as jailers in a city or county jail, and other individuals that the Washington association of sheriffs and police chiefs places on the committee. The committee shall have the authority to:

(a) Develop and amend as needed standards for the statewide jail booking and reporting system and for the information that must be contained within the system. At a minimum, the system shall contain:

- (i) The offenses the individual has been charged with;
- (ii) Descriptive and personal information about each offender booked into a city or county jail. At a minimum, this information shall contain the offender's name, vital statistics, address, and mugshot;
- (iii) Information about the offender while in jail, which could be used to protect criminal justice officials that have future contact with the offender, such as medical conditions, acts of violence, and other behavior problems;
- (iv) Statistical data indicating the current capacity of each jail and the quantity and category of offenses charged;
- (v) The ability to communicate directly and immediately with the city and county jails and other criminal justice entities; and
- (vi) The date and time that an offender was released or transferred from a local jail;

(b) Develop and amend as needed operational standards for city and county jail booking systems, which at a minimum shall include the type of information collected and transmitted, and the technical requirements needed for the city and county jail booking system to communicate with the statewide jail booking and reporting system;

(c) Develop and amend as needed standards for allocating grants to city and county jails or law enforcement agencies that will be implementing or reconfiguring electronic jail booking systems.

~~(5) ((By January 1, 2001, the standards committee shall complete the initial standards described in subsection (4) of this section, and the standards shall be placed into a report and provided to all Washington state city and county jails, all other criminal justice agencies as defined in RCW 10.97.030, the chair of the Washington state senate human services and corrections committee, and the chair of the Washington state house of representatives criminal justice and corrections committee.))~~ (a) A statewide automated victim information and notification system shall be added to the city and county jail booking and reporting system. The system shall:

(i) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when any of the following events affect an offender housed in any Washington state city or county jail or department of corrections facility:

- (A) Is transferred or assigned to another facility;
- (B) Is transferred to the custody of another agency outside the state;
- (C) Is given a different security classification;
- (D) Is released on temporary leave or otherwise;
- (E) Is discharged;

- (F) Has escaped; or
- (G) Has been served with a protective order that was requested by the victim;
- (ii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when an offender has:
 - (A) An upcoming court event where the victim is entitled to be present, if the court information is made available to the statewide automated victim information and notification system administrator at the Washington association of sheriffs and police chiefs;
 - (B) An upcoming parole, pardon, or community supervision hearing; or
 - (C) A change in the offender's parole, probation, or community supervision status including:
 - (I) A change in the offender's supervision status; or
 - (II) A change in the offender's address;
- (iii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when a sex offender has:
 - (A) Updated his or her profile information with the state sex offender registry; or
 - (B) Become noncompliant with the state sex offender registry;
- (iv) Permit a registered victim to receive the most recent status report for an offender in any Washington state city and county jail, department of corrections, or sex offender registry by calling the statewide automated victim information and notification system on a toll-free telephone number or by accessing the statewide automated victim information and notification system via a public web site. All registered victims calling the statewide automated victim information and notification system will be given the option to have live operator assistance to help use the program on a twenty-four hour, three hundred sixty-five day per year basis;
- (v) Permit a crime victim to register, or registered victim to update, the victim's registration information for the statewide automated victim information and notification system by calling a toll-free telephone number or by accessing a public web site; and
- (vi) Ensure that the offender information contained within the statewide automated victim information and notification system is updated frequently to timely notify a crime victim that an offender has been released or discharged or has escaped. However, the failure of the statewide automated victim information and notification system to provide notice to the victim does not establish a separate cause of action by the victim against state officials, local officials, law enforcement officers, or any related correctional authorities.
- (b) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or units of government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated victim information and notification system and the jail booking and reporting system as described in this section, so long as the release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.
- (c) Participation in the statewide automated victim information and notification program satisfies any obligation to notify the crime victim of an offender's custody status and the status of the offender's upcoming court events so long as:
 - (i) Information making offender and case data available is provided on a timely basis to the statewide automated victim information and notification program; and
 - (ii) Information a victim submits to register and participate in the victim notification system is only used for the sole purpose of victim notification.
- (d) Automated victim information and notification systems in existence and operational as of the effective date of this act shall not be required to participate in the statewide system.

NEW SECTION. Sec. 3. In Washington any vendor contracted to provide a statewide automated victim notification service must deliver the service with a minimum of 99.95-percent availability and with less than an average of one-percent notification errors as a result of the vendor's technology."

Correct the title.

Signed by Representatives O'Brien, Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Darneille, Vice Chairman; Passed to Committee on Appropriations.

February 23, 2006

SSB 6519 Prime Sponsor, Senate Committee On Human Services & Corrections: Requiring level III sex offenders to report to law enforcement every three months. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Darneille, Vice Chairman; Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6540 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Concerning the processing of liquor licenses. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 5, beginning on line 17, after "of the application to" strike "churches, schools, and public institutions" and insert "~~((churches, schools, and public institutions))~~ public institutions identified by the board as appropriate to receive such notice, churches, and schools"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6555 Prime Sponsor, Senate Committee On Ways & Means: Providing research and services for special purpose districts. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan; Takko and Woods.

Referred to Committee on Appropriations.

February 23, 2006

SSB 6613 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Prohibiting internet gambling. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6617 Prime Sponsor, Senate Committee On Agriculture & Rural Economic Development: Regarding the contents of farm plans prepared by conservation districts. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 89.08 RCW to read as follows:

(1) Conservation districts, before developing a farm plan, shall inform the landowner or operator in writing of the types of information that is subject to disclosure to the public under chapter 42.56 RCW. Before completion of the final draft of a farm plan, the district shall send the final draft farm plan to the requesting landowner or operator for verification of the information. The final farm plan shall not be disclosed by the conservation district until the requesting owner or operator confirms the information in the farm plan and a signed copy of the farm plan is received by the conservation district.

(2) For the purposes of this section and RCW 42.56.270, "farm plan" means a plan prepared by a conservation district in cooperation with a landowner or operator for the purpose of conserving, monitoring, or enhancing renewable natural resources. Farm plans include, but are not limited to, provisions pertaining to:

- (a) Developing and prioritizing conservation objectives;
- (b) Taking an inventory of soil, water, vegetation, livestock, and wildlife;
- (c) Implementing conservation measures, including technical assistance provided by the district;
- (d) Developing and implementing livestock nutrient management measures;
- (e) Developing and implementing plans pursuant to business and financial objectives; and
- (f) Recording, or records of, decisions.

Sec. 2. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; ~~(and)~~

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter; and

(13)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit.

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.17.31923 (as recodified by House Bill No. 2520) and 90.64.190.

NEW SECTION. Sec. 3. Section 2 of this act takes effect July 1, 2006."

Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan; Takko and Woods.

Passed to Committee on Rules for second reading.

February 23, 2006

E2SSB 6630 Prime Sponsor, Senate Committee On Ways & Means: Establishing the community protection program for persons with developmental disabilities. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The department of social and health services is providing a structured, therapeutic environment for persons who are eligible for placement in the community protection program in order for them to live safely and successfully in the community while minimizing the risk to public safety.

The legislature approves of steps already taken by the department to create a community protection program within the division of developmental disabilities.

NEW SECTION. Sec. 2. Sections 3 through 8 of this act apply to a person:

(1)(a) Who has been charged with or convicted of a crime and meets the following criteria:

(i) Has been convicted of one of the following:

(A) A crime of sexual violence as defined in chapter 9A.44 or 71.09 RCW including, but not limited to, rape, rape of a child, and child molestation;

(B) Sexual acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists; or

(C) One or more violent offenses, as defined by RCW 9.94A.030; and

(ii) Constitutes a current risk to others as determined by a qualified professional. Charges or crimes that resulted in acquittal must be excluded; or

(b) Who has not been charged with and/or convicted of a crime, but meets the following criteria:

(i) Has a history of stalking, violent, sexually violent, predatory, and/or opportunistic behavior which demonstrates a likelihood to commit a violent, sexually violent, and/or predatory act; and

(ii) Constitutes a current risk to others as determined by a qualified professional; and

(2) Who has been determined to have a developmental disability as defined by RCW 71A.10.020(3).

NEW SECTION. Sec. 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessment" means the written opinion of a qualified professional stating, at a minimum:

(a) Whether a person meets the criteria established in section 2 of this act;

(b) What restrictions are necessary.

(2) "Certified community protection program intensive supported living services" means access to twenty-four-hour supervision, instruction, and support services as identified in the person's plan of care.

(3) "Community protection program" means services specifically designed to support persons who meet the criteria of section 2 of this act.

(4) "Constitutes a risk to others" means a determination of a person's risk and/or dangerousness based upon a thorough assessment by a qualified professional.

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

(6) "Developmental disability" means that condition defined in RCW 71A.10.020(3).

(7) "Disclosure" means providing copies of professional assessments, incident reports, legal documents, and other information pertaining to community protection issues to ensure the provider has all relevant information. Polygraph and plethysmograph reports are excluded from disclosure.

(8) "Division" means the division of developmental disabilities.

(9) "Managed successfully" means that a person supported by a community protection program does not engage in the behavior identified in section 2 of this act.

(10) "Opportunistic behavior" means an act committed on impulse, which is not premeditated.

(11) "Predatory" means acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or casual acquaintances with whom no substantial personal relationship exists. Predatory behavior may be characterized by planning and/or rehearsing the act, stalking, and/or grooming the victim.

(12) "Qualified professional" means a person with at least three years' prior experience working with individuals with developmental disabilities, and: (a) If the person being assessed has demonstrated sexually aggressive or sexually violent behavior, that person must be assessed by a qualified professional who is a certified sex offender treatment provider, or affiliate sex offender treatment provider working under the supervision of a certified sex offender treatment provider; or (b) If the person being assessed has demonstrated violent, dangerous, or aggressive behavior, that person must be assessed by a licensed psychologist or psychiatrist who has received specialized training in the treatment of or has at least three years' prior experience treating violent or aggressive behavior.

(13) "Treatment team" means the program participant and the group of people responsible for the development, implementation, and monitoring of the person's individualized supports and services. This group may include, but is not limited to, the case resource manager, therapist, residential provider, employment/day program provider, and the person's legal representative and/or family, provided the person consents to the family member's involvement.

(14) "Violent offense" means any felony defined as a violent offense in RCW 9.94A.030.

(15) "Waiver" means the community-based funding under section 1915 of Title XIX of the federal social security act.

NEW SECTION. Sec. 4. (1) Prior to receiving services through the community protection program, a person must first receive an assessment of risk and/or dangerousness by a qualified professional. The assessment must be consistent with the guidelines for risk assessments and psychosexual evaluations developed by the department. The person requesting services and the person's legal representative have the right to choose the qualified professional who will perform the assessment from a list of state contracted qualified professionals. The assessment must contain, at a minimum, a determination by the qualified professional whether the person can be managed successfully in the community with reasonably available safeguards and that lesser restrictive residential placement alternatives have been considered and would not be reasonable for the person seeking services. The department may request an additional evaluation by a qualified professional evaluator who is contracted with the state.

(2) Any person being considered for placement in the community protection program and his or her legal representative must be informed in writing of the following: (a) Limitations regarding the services that will be available due to the person's community protection issues; (b) disclosure requirements as a condition of receiving services other than case management; (c) the requirement to engage in therapeutic treatment may be a condition of receiving certain services; (d) anticipated restrictions that may be provided including, but not limited to intensive

supervision, limited access to television viewing, reading material, videos; (e) the right to accept or decline services; (f) the anticipated consequences of declining services such as the loss of existing services and removal from waiver services; (g) the right to an administrative fair hearing in accordance with department and division policy; (h) the requirement to sign a preplacement agreement as a condition of receiving community protection intensive supported living services; (i) the right to retain current services during the pendency of any challenge to the department's decision; (j) the right to refuse to participate in the program.

(3)(a) If the department determines that a person is appropriate for placement in the community protection program, the individual and his or her legal representative shall receive in writing a determination by the department that the person meets the criteria for placement within the community protection program.

(b) If the department determines that a person cannot be managed successfully in the community protection program with reasonably available safeguards, the department must notify the person and his or her legal representative in writing.

NEW SECTION. Sec. 5. (1) Individuals receiving services through the department's community protection waiver retain all appeal rights provided for in RCW 71A.10.050. In addition, such individuals have a right to an administrative hearing pursuant to chapter 34.05 RCW to appeal the following decisions by the department:

- (a) Termination of community protection waiver eligibility;
 - (b) Assignment of the applicant to the community protection waiver;
 - (c) Denial of a request for less restrictive community residential placement.
- (2) Final administrative decisions may be appealed pursuant to the provisions of RCW 34.05.510.

(3) The secretary shall adopt rules concerning the procedure applicable to requests for hearings under this section and governing the conduct thereof.

(4) When the department takes any action described in subsection (1) of this section it shall give notice as provided by RCW 71A.10.060. The notice must include a statement advising the person enrolled on the community protection waiver of the right to an adjudicative proceeding and the time limits for filing an application for an adjudicative proceeding. Notice must also include a statement advising the recipient of the right to file a petition for judicial review of a final administrative decision as provided in chapter 34.05 RCW.

(5) Nothing in this section creates an entitlement to placement on the community protection waiver nor does it create a right to an administrative hearing on department decisions denying placement on the community protection waiver.

NEW SECTION. Sec. 6. (1) Community protection program participants shall have appropriate opportunities to receive services in the least restrictive manner and in the least restrictive environments possible. When considering requests or recommendations for lessening program restrictions, reducing supervision, or terminating services, careful consideration to the safety and welfare of both the individual and the community must be given.

(2) There must be a review by the treatment team every ninety days to assess each participant's progress, evaluate use of less restrictive measures, and make changes in the participant's program as necessary. The team must review all restrictions and recommend reductions if appropriate. The therapist must write a report annually evaluating the participant's risk of offense and/or risk of behaviors that are dangerous to self or others. The department shall have rules in place describing this process. If a treatment team member has reason to be concerned that circumstances have changed significantly, the team member may request that a complete reassessment be conducted at any time.

NEW SECTION. Sec. 7. A participant who demonstrates success in complying with reduced restrictions and remains free of offenses that may indicate a relapse for at least twelve months, may be considered for placement in a less restrictive community residential setting.

The process to move a participant to a less restrictive residential placement shall include, at a minimum:

- (1) Written verification of the person's treatment progress, compliance with reduced restrictions, an assessment of low risk of reoffense, and a recommendation as to suitable placement by the treatment team;
- (2) Development of a gradual phase out plan by the treatment team, projected over a reasonable period of time and includes specific criteria for evaluating reductions in restrictions, especially supervision;
- (3) The absence of any incidents that may indicate relapse for a minimum of twelve months;
- (4) A written plan that details what supports and services, including the level of supervision the person will receive from the division upon exiting the community protection program;
- (5) An assessment consistent with the guidelines for risk assessments and psychosexual evaluations developed by the division, conducted by a qualified professional. At a minimum, the assessment shall include:
 - (a) An evaluation of the participant's risk of reoffense and/or dangerousness; and
 - (b) An opinion as to whether or not the person can be managed successfully in a less restrictive community residential setting;
- (6) Recommendation by the treatment team that the participant is ready to move to a less restrictive community residential placement.

NEW SECTION. Sec. 8. The department shall develop and maintain rules, guidelines, or policy manuals, as appropriate, for implementing and maintaining the community protection program under this chapter.

Sec. 9. RCW 71.09.020 and 2003 c 216 s 2 and 2003 c 50 s 1 are each reenacted and amended to read as follows:

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

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

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to section 4 of this act.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

(10) "Recent overt act" means any act or threat that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act.

(11) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

(12) "Secretary" means the secretary of social and health services or the secretary's designee.

(13) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(14) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(15) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(16) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(17) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

Sec. 10. RCW 71.09.060 and 2001 c 286 s 7 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under section 4 of this act may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(~~((6))~~) (15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent

predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released pursuant to RCW 10.77.090(4), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.090(4) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter, except that during all court proceedings the person shall be detained in a secure facility. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

NEW SECTION. Sec. 11. Sections 2 through 8 of this act are each added to chapter 71A.12 RCW."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille; Dickerson; Haler and Pettigrew.

MINORITY recommendation: Without recommendation. Signed by Representatives Dunn.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6635 Prime Sponsor, Senate Committee On Human Services & Corrections: Changing provisions relating to adoption. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.33.045 and 1995 c 270 s 8 are each amended to read as follows:

(1) An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq.

(2) The department shall create standardized training to be provided to all department employees involved in the placement of a child to assure compliance with Title IV of the civil rights act of 1964 and the multiethnic placement act of 1994, as amended by the interethnic adoption provisions of the small business job protection act of 1996. Such training shall be open to agency employees on a space-available basis.

Sec. 2. RCW 26.33.300 and 1991 c 3 s 288 are each amended to read as follows:

The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall include the data required for the purposes of federal reporting requirements as well as disclosure of all fees, costs, and expenses paid by the petitioner. The data card shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile and summarize the data and ((publish reports summarizing the data)) provide a report annually to the legislature beginning December 31, 2006. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed.

NEW SECTION. Sec. 3. The department of health shall, in consultation with adoption advocates, representatives of adoption agencies, adoption attorneys, child-placing agencies, birth and adoptive parents and adapters, federally recognized tribes, and representatives of the superior court judges:

(1) Review the fees associated with children adopted out of the foster care system who are dependents of the state of Washington. The review shall include a determination of whether fees or any other factors are barriers to adoptions of children out of the foster care system; and

(2) Study accreditation standards developed for adoption agencies, including the standards developed by the council on accreditation for children and family services. The department shall brief the legislature by January 1, 2007, on recommendations related to accreditation standards and reducing any barriers that may exist pertaining to the adoption of children who are dependents of the state of Washington.

Sec. 4. RCW 26.33.400 and 1991 c 136 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

~~(3)(a) A violation of subsection (2) of this section is a matter affecting the public interest ((for the purpose of applying chapter 19.86 RCW. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section)) and constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.~~

~~(b) The attorney general may bring an action in the name of the state against any person violating the provisions of this section in accordance with the provisions of RCW 19.86.080.~~

~~(c) Nothing in this section applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this section after an attempt to verify the advertising is in compliance with this section.~~

NEW SECTION. Sec. 5. RCW 26.33.410 (Advertisements--Exemption) and 1989 c 255 s 2 are each repealed."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Passed to Committee on Rules for second reading.

February 22, 2006

ESB 6661 Prime Sponsor, Senator Rasmussen: Establishing the Washington beer commission. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

- (1) "Affected producer" means any producer who is subject to this chapter.
- (2) "Beer" means any malt beverage or malt liquor as the terms are defined in chapter 66.04 RCW.
- (3) "Commission" means the Washington beer commission.
- (4) "Department" means the department of agriculture.
- (5) "Director" means the director of the department or the director's duly authorized representative.
- (6) "Fiscal year" means the twelve-month period beginning with January 1st of any year and ending December 31st.
- (7) "Producer" means any person or other entity licensed under Title 66 RCW to produce beer within Washington state and who produces less than one hundred thousand barrels of beer annually per location.
- (8) "Referendum" means a vote by affected producers that is conducted by secret ballot.

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

- (1) It is vital to the continued economic well-being of the citizens of this state and their general welfare that beer produced in Washington state be properly promoted;
- (2) It is in the overriding public interest that support for the Washington beer industry be clearly expressed and that beer be promoted individually, and as part of a comprehensive industry to:
 - (a) Enhance the reputation and image of Washington state's agriculture industry;
 - (b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beer;
 - (c) Increase the knowledge of the qualities and value of Washington's beer; and
 - (d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;
- (3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and
- (4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:
 - (a) The organic food products act, chapter 15.86 RCW;
 - (b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;
 - (c) Weights and measures, chapter 19.94 RCW;
 - (d) Title 66 RCW, alcoholic beverage control;
 - (e) Title 69 RCW, food, drugs, cosmetics, and poisons;
 - (f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;
 - (g) Chapter 69.07 RCW, Washington food processing act;
 - (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;
 - (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and
 - (j) Rules under Title 314 WAC.

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

- (2) Five voting members of the commission constitute a quorum for the transaction of any commission business.
- (3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a corporation. No more than one board member may be part of the same person as defined by RCW 15.04.010. These qualifications apply throughout each member's term of office but do not apply to the director.
- (4) The producer members shall serve three-year terms. Of the initial voting members, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and two members shall be appointed for a three-year term.

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

- (a) Conduct a referendum of beer producers. The requirements of assent or approval of the referendum are met if:
 - (i) At least fifty-one percent by numbers of affected producers participating in the referendum vote affirmatively; and
 - (ii) Thirty percent of the affected producers and thirty percent of the production have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted within sixty days of receipt of the petition; and
- (b) Establish a list of beer producers from information provided by the petitioners, by obtaining information on beer producers from applicable producer organizations or associations or other sources identified as maintaining the information. In establishing a current list of beer producers and their individual production, the director shall use the beer producer's name, mailing address, and production by the producer in the preceding fiscal year. Information on each producer shall be mailed to each beer producer on record with the director for verification. All corrections shall be filed with the director within twenty days from the date of mailing. The list of affected producers shall be kept in a file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected producer does not invalidate a proceeding conducted under this chapter. The director shall provide the commission the list of affected producers after assent in a referendum as provided in this section.

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

- (a) Within sixty days after assent of the referendum held, appoint the members of the commission; and
- (b) Direct the commission to put into force the assessment as provided for in section 14 of this act.

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

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

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

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

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

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

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

NEW SECTION. Sec. 7. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

NEW SECTION. Sec. 8. The commission shall:

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

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

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

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

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

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

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

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception

to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Promote Washington breweries as tourist attractions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

The Washington beer commission created under section 4 of this act may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in section 8 of this act. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes

imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.-- RCW (sections 1 through 21 of this act).

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

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

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

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

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

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

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

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

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

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

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

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

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

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

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

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

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

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

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

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

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

Sec. 28. RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 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 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.

(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) 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.

NEW SECTION. Sec. 29. 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. 30.** Sections 1 through 21 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. **Sec. 31.** Section 25 of this act expires July 1, 2006.

NEW SECTION. **Sec. 32.** Section 26 of this act takes effect July 1, 2006."

Correct the title.

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Appleton; Bailey; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Skinner, Assistant Ranking Minority Member;

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6676 Prime Sponsor, Senate Committee On Judiciary: Prohibiting fraudulent filings of vehicle reports of sale. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6697 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Establishing technology priorities for institutions of higher education. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass. Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

MINORITY recommendation: Without recommendation. Signed by Representatives Dunn.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6717 Prime Sponsor, Senate Committee On Human Services & Corrections: Extending the joint task force on criminal background check processes. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6720 Prime Sponsor, Senator Brandland: Revising reporting requirements for criminal history record information. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

Passed to Committee on Rules for second reading.

February 22, 2006

SSB 6728 Prime Sponsor, Senate Committee On Water, Energy & Environment: Regarding a seller's disclosure of information concerning unimproved real property zoned residential. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that providing prospective purchasers with information about prior uses and the potential presence of toxic contamination on unimproved real property that is intended to be developed for residential use allows prospective purchasers to evaluate the risks, if any, associated with a prospective purchase of the property. The legislature recognizes that the purchase of unimproved property zoned for residential use may include risks to purchasers, especially purchasers without expertise in real estate development. Therefore, this act creates a task force to review and recommend methods to inform prospective purchasers of the presence of toxic contamination on unimproved residential real property.

NEW SECTION. Sec. 2. (1) The office of the attorney general shall convene a task force to study issues related to the residential real property disclosure statement required under chapter 64.06 RCW and methods to disclose information to prospective purchasers of unimproved real property zoned for residential use. The office of the attorney general may include in the task force stakeholders representing the Washington real estate industry, real property purchasers having experience with undisclosed toxic contamination on unimproved residential real property, consumer protection organizations, the residential construction industry, the department of ecology, and the department of licensing. The office of the attorney general may invite interested legislators to participate.

(2) The task force shall:

(a) Recommend improvements to methods for purchasers of unimproved real property zoned for residential use to obtain information about material conditions relating to the property, including information regarding prior industrial uses of property and the presence of buried industrial waste, utility poles and equipment, and similar material that may contain toxic contaminants;

(b) Recommend additional methods to inform purchasers of potential toxic contamination on unimproved residential real property prior to a sale;

(c) Recommend forms, sources of information, and practices used in transactions involving both improved and unimproved real property zoned for residential use in other states that provide information to the purchaser about conditions of unimproved property;

(d) Identify potential sources of information relevant to conditions of unimproved property zoned for residential use. These sources may include, but are not limited to, existing real estate forms, regulatory agencies, local governments, property inspections, and environmental audits; and

(e) Recommend methods, such as notice provisions, that could be used in transactions of unimproved real property zoned for residential use.

(3) The task force shall report its findings and recommendations to the appropriate committees of the legislature by January 1, 2007.

(4) This section expires January 1, 2007."

Correct the title.

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Crouse; Holmquist; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Assistant Ranking Minority Member;

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6731 Prime Sponsor, Senator Fraser: Prohibiting sellers of travel from promoting travel for sex tourism. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended:

On page 2, line 9, after "be" insert "patronizing a prostitute or promoting"

On page 2, line 23, after "the" strike "ability" and insert "availability"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

February 23, 2006

ESB 6741 Prime Sponsor, Senator Stevens: Regarding the joint task force on the administration and delivery of services to children. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended:

On page 3, beginning on line 13, after "services." strike everything through "force." on line 15.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6766 Prime Sponsor, Senator Schmidt: Regarding the national guard conditional scholarship. Reported by Committee on Higher Education & Workforce Education

MAJORITY recommendation: Do pass. Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Dunn; Fromhold; Hasegawa; Ormsby; Priest; Roberts and Sommers.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6775 Prime Sponsor, Senate Committee On Human Services & Corrections: Creating the crime of criminal trespass against children. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to give public and private entities that provide services to children the tools necessary to prevent convicted child sex offenders from contacting children when those children are within the legal boundaries of the covered public and private entities.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.44 RCW to read as follows:

As used in this section and sections 3 and 4 of this act:

(1) "Covered entity" means any public facility or private facility whose primary purpose, at any time, is to provide for the education, care, or recreation of a child or children, including but not limited to community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

(2) "Child" means a person under the age of eighteen, unless the context clearly indicates that the term is otherwise defined in statute.

(3) "Public facility" means a facility operated by a unit of local or state government, or by a nonprofit organization.

(4) "Schools" means public and private schools, but does not include home-based instruction as defined in RCW 28A.225.010.

(5) "Covered offender" means a person who is eighteen years of age or older, who is not under the jurisdiction of the juvenile rehabilitation authority or currently serving a special sex offender disposition alternative, whose risk level classification has been assessed at a risk level II or a risk level III pursuant to RCW 72.09.345, and who, at any time, has been convicted of one or more of the following offenses:

(a) Rape of a child in the first, second, and third degree; child molestation in the first, second, and third degree; indecent liberties against a child under age fifteen; sexual misconduct with a minor in the first and second degree; incest in the first and second degree; luring with sexual motivation; possession of depictions of minors engaged in sexually explicit conduct; dealing in depictions of minors engaged in sexually explicit conduct; bringing into the state depictions of minors engaged in sexually explicit conduct; sexual exploitation of a minor; communicating with a minor for immoral purposes; patronizing a juvenile prostitute;

(b) Any felony in effect at any time prior to the effective date of this act that is comparable to an offense listed in (a) of this subsection, including, but not limited to, statutory rape in the first and second degrees and carnal knowledge;

(c) Any felony offense for which:

(i) There was a finding that the offense was committed with sexual motivation; and

(ii) The victim of the offense was less than sixteen years of age at the time of the offense;

(d) An attempt, conspiracy, or solicitation to commit any of the offenses listed in (a) through (c) of this subsection;

(e) Any conviction from any other jurisdiction which is comparable to any of the offenses listed in (a) through (d) of this subsection.

NEW SECTION. Sec. 3. A new section is added to chapter 9A.44 RCW to read as follows:

(1) An owner, employee, or agent of a covered entity may order a covered offender from the legal premises of a covered entity as provided under this section. To do this, the owner, employee, or agent of a covered entity must first personally serve on the covered offender a written notice that informs the covered offender that:

(a) The covered offender must leave the legal premises of the covered entity and may not return without the written permission of the covered entity; and

(b) If the covered offender refuses to leave the legal boundaries of the covered entity, or thereafter returns and enters within the legal boundaries of the covered entity, the offender may be charged and prosecuted for a felony offense as provided in section 4 of this act.

(2) An owner, employee, or agent of a covered entity shall be immune from civil liability for damages arising from ejecting a covered offender from a covered entity or from failing to eject a covered offender from a covered entity.

NEW SECTION. Sec. 4. A new section is added to chapter 9A.44 RCW to read as follows:

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in section 2 of this act;

(b) Receives written notice that complies with the requirements of section 3 of this act that he or she is not permitted to remain upon or reenter the legal boundaries of the covered entity; and

(c) Remains upon or reenters the legal boundaries of the covered entity without the written permission of the covered entity.

(2) Criminal trespass against children is a class C felony.

Sec. 5. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))

- Sexually Violent Predator Escape
(RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW
70.74.180)
- Hit and Run--Death (RCW
46.52.020(4)(a))
- Homicide by Watercraft, by being
under the influence of intoxicating
liquor or any drug (RCW
79A.60.050)
- Inciting Criminal Profiteering (RCW
9A.82.060(1)(b))
- Malicious placement of an explosive 2
(RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under
the influence of intoxicating liquor
or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Homicide by Watercraft, by the
operation of any vessel in a
reckless manner (RCW
79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW
9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation
of any vehicle in a reckless
manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW
9A.48.120)
- Dealing in depictions of minor
engaged in sexually explicit
conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard
for the safety of others (RCW
79A.60.050)
- Indecent Liberties (without forcible
compulsion) (RCW 9A.44.100(1)
(b) and (c))
- Introducing Contraband 1 (RCW
9A.76.140)
- Malicious placement of an explosive 3
(RCW 70.74.270(3))
- Negligently Causing Death By Use of
a Signal Preemption Device
(RCW 46.37.675)
- Sending, bringing into state depictions
of minor engaged in sexually
explicit conduct (RCW
9.68A.060)

- Unlawful Possession of a Firearm in the first degree (RCW 9A.1.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9A.1.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

- Sexually Violating Human Remains
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a
Projectile Stun Gun) (RCW
9A.36.031(1)(h))
- Assault by Watercraft (RCW
79A.60.060)
- Bribing a Witness/Bribe Received by
Witness (RCW 9A.72.090,
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW
9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Criminal Trespass Against Children
(second or subsequent offense)
(section 4 of this act)
- Endangerment with a Controlled
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW
46.52.020(4)(b))
- Hit and Run with Vessel--Injury
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under
Age Fourteen (subsequent sex
offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting
Event (RCW 9A.82.070)
- Malicious Harassment (RCW
9A.36.080)
- Residential Burglary (RCW
9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW
9A.82.050)
- Unlawful factoring of a credit card or
payment card transaction (RCW
9A.56.290(4)(b))
- Unlawful transaction of health
coverage as a health care service
contractor (RCW 48.44.016(3))
- Unlawful transaction of health
coverage as a health maintenance
organization (RCW 48.46.033(3))
- Unlawful transaction of insurance
business (RCW 48.15.023(3))
- Unlicensed practice as an insurance
professional (RCW 48.17.063(3))

- Use of Proceeds of Criminal
Profiteering (RCW 9A.82.080 (1)
and (2))
- Vehicular Assault, by being under the
influence of intoxicating liquor or
any drug, or by the operation or
driving of a vehicle in a reckless
manner (RCW 46.61.522)
- Willful Failure to Return from
Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2
(RCW 9A.42.070)
- Assault 3 (Except Assault 3 of a Peace
Officer With a Projectile Stun
Gun) (RCW 9A.36.031 except
subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony
(RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for
Immoral Purposes (RCW
9.68A.090)
- Criminal Gang Intimidation (RCW
9A.46.120)
- Criminal Mistreatment 2 (RCW
9A.42.030)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction
or threat of death) (RCW
9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW
9A.76.180)
- Introducing Contraband 2 (RCW
9A.76.150)
- Malicious Injury to Railroad Property
(RCW 81.60.070)
- Negligently Causing Substantial Bodily
Harm By Use of a Signal
Preemption Device (RCW
46.37.674)
- Patronizing a Juvenile Prostitute
(RCW 9.68A.100)
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW
9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW
9.41.190)
- Promoting Prostitution 2 (RCW
9A.88.080)
- Securities Act violation (RCW
21.20.400)
- Tampering with a Witness (RCW
9A.72.120)

- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)

Taking Motor Vehicle Without
Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two
hundred fifty dollars or more but
less than one thousand five
hundred dollars) (RCW
9A.56.096(5)(b))

Transaction of insurance business
beyond the scope of licensure
(RCW 48.17.063(4))

Unlawful Issuance of Checks or Drafts
(RCW 9A.56.060)

Unlawful Possession of Fictitious
Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of
Financial Fraud (RCW
9A.56.320)

Unlawful Possession of Payment
Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)

Unlawful Production of Payment
Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW
9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives O'Brien, Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby; Strow and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Darneille, Vice Chairman;

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6802 Prime Sponsor, Senate Committee On Water, Energy & Environment: Regarding air pollution control authority boards. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan; Takko and Woods.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6821 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Creating a work group to explore the creation of college and career readiness centers. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis; Haigh; Hunter; McDermott; Priest; Santos; Shabro; Tom and Wallace.

Passed to Committee on Rules for second reading.

February 22, 2006

ESSB 6885 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Modifying unemployment insurance provisions. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins; Kenney and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse and Holmquist.

Passed to Committee on Rules for second reading.

February 23, 2006

SSCR 8417 Prime Sponsor, Senate Committee On Labor, Commerce, Research & Development: Establishing a committee on gambling policy setting. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse; Hudgins; Kenney and McCoy.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES SUPPLEMENTAL 2

February 23, 2006

ESB 5160 Prime Sponsor, Senator Eide: Restricting use of wireless communications devices in moving motor vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.20.055 and 2005 c 314 s 303 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid a fee of twenty dollars, and meets the following requirements:

- (a) Is at least fifteen and one-half years of age; or
- (b) Is at least fifteen years of age and:

- (i) Has submitted a proper application; and

- (ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

- (a) A traffic safety education course as defined by RCW 28A.220.020(2); or
- (b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1).

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

- (a) The person has immediate possession of the permit; ~~((and))~~

- (b) The person is not using a wireless communication device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and

- (c) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

For purposes of this subsection (3), "wireless communication device" means a hand-held portable voice or data device used for commercial mobile services as defined in 47 U.S.C. Sec. 332(d)(1).

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying to renew an instruction permit must submit the application to the department in person.

Sec. 2. RCW 46.20.075 and 2000 c 115 s 2 are each amended to read as follows:

(1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least sixteen years of age and:

(a) Have possessed a valid instruction permit for a period of not less than six months;

(b) Have passed a driver licensing examination administered by the department;

(c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;

(d) Present certification by his or her parent, guardian, or employer to the department stating (i) that the applicant has had at least fifty hours of driving experience, ten of which were at night, during which the driver was supervised by a person at least twenty-one years of age who has had a valid driver's license for at least three years, and (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;

(e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and

(f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.

(2) For the first six months after the issuance of an intermediate license or until the holder reaches eighteen years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of twenty who are not members of the holder's immediate family as defined in RCW 42.17.020. For the remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of twenty who are not members of the holder's immediate family.

(3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m. except when the holder is accompanied by a parent, guardian, or a licensed driver who is at least twenty-five years of age.

(4) The holder of an intermediate license may not operate a motor vehicle while using a wireless communication device unless the holder is using the device to:

(a) Report illegal activity;

(b) Summon medical or other emergency help; or

(c) Prevent injury to a person or property.

(5) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.

~~((5))~~ (6) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense, except in the case of a violation of the restriction on the use of wireless communication devices, which is a primary infraction and need not be accompanied by the suspected violation of some other offense.

~~((6))~~ (7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

~~((7))~~ (8) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the twelve-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an automobile accident; and

(b) Has not been convicted or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section.

(9) For purposes of this section, "wireless communication device" means a hand-held portable voice or data device used for commercial mobile services as defined in 47 U.S.C. Sec. 332(d)(1).

NEW SECTION. Sec. 3. This act takes effect July 1, 2006."

Correct the title.

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Appleton; Clibborn; Dickerson; Flannigan; Hudgins; Jarrett; Kilmer; Lovick; Sells; Simpson; B. Sullivan; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck; Curtis; Ericksen; Hankins; Holmquist; Morris; Nixon; Rodne; Schindler; Shabro and Takko.

Passed to Committee on Rules for second reading.

February 23, 2006

ESB 5179 Prime Sponsor, Senator Morton: Studying forest health issues. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) A work group is created to study opportunities to improve the forest health issues enumerated in RCW 76.06.140 that are facing forest land in Washington and to help the commissioner of public lands develop a strategic plan under section 3, chapter 218, Laws of 2004. The work group may, if deemed necessary, identify and focus on regions of the state where forest health issues enumerated in section 1 of this act are the most critical.

(2)(a) The work group is comprised of individuals selected on the basis of their knowledge of forests, forest ecology, or forest health issues and, if determined by the commissioner of public lands to be necessary, should represent a mix of individuals with knowledge regarding specific regions of the state. Members of the work group shall be appointed by the commissioner of public lands, unless otherwise specified, and shall include:

- (i) The commissioner of public lands or the commissioner's designee, who shall serve as chair;
- (ii) A representative of a statewide industrial timber landowner's group;
- (iii) A landowner representative from the small forest landowner advisory committee established in RCW 76.13.110;
- (iv) A representative of a college within a state university that specializes in forestry or natural resources science;
- (v) A representative of an environmental organization;
- (vi) A representative of a county that has within its borders state-owned forest lands that are known to suffer from the forest health deficiencies enumerated in RCW 76.06.140;
- (vii) A representative of the Washington state department of fish and wildlife;
- (viii) A forest hydrologist, an entomologist, and a fire ecologist, if available;
- (ix) A representative of the governor appointed by the governor; and
- (x) A representative of a professional forestry organization.

(b) In addition to the membership of the work group outlined in this section, the commissioner of public lands shall also invite the full and equal participation of:

- (i) A representative of a tribal government located in a region of the state where the forest health issues enumerated in RCW 76.06.140 are present; and
- (ii) A representative of both the United States forest service and the United States fish and wildlife service stationed to work primarily in Washington.

(3) The work group shall:

- (a) Determine whether the goals and requirements of chapter 76.06 RCW are being met with regard to the identification, designation, and reduction of significant forest insect and disease threats to public and private forest resources, and whether the provisions of chapter 76.06 RCW are the most effective and appropriate way to address forest health issues;
 - (b) Study what incentives could be used to assist landowners with the costs of creating and maintaining forest health;
 - (c) Identify opportunities and barriers for improved prevention of losses of public and private resources to forest insects, diseases, wind, and fire;
 - (d) Assist the commissioner in developing a strategic plan under section 3, chapter 218, Laws of 2004 for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington;
 - (e) Develop funding alternatives for consideration by the legislature;
 - (f) Explore possible opportunities for the state to enter into cooperative agreements with the federal government, or other avenues for the state to provide input on the management of federally owned land in Washington;
 - (g) Develop recommendations for the proper treatment of infested and fire and wind damaged forests on public and private lands within the context of working with interdisciplinary teams under the forest practices act to ensure that forest health is achieved with the protection of fish, wildlife, and other public resources;
 - (h) Analyze the state noxious weed control statutes and procedures (chapter 17.10 RCW) and the extreme hazard regulations adopted under the forest protection laws, to determine if the policies and procedures of these laws are applicable, or could serve as a model to support improved forest health; and
 - (i) Recommend whether the work group should be extended beyond the time that the required report has been submitted.
- (4) The work group shall submit to the department of natural resources and the appropriate standing committees of the legislature, no later than December 30, 2006, its findings and recommendations for legislation that is necessary to implement the findings.
- (5) The department of natural resources shall provide technical and staff support from existing staff for the work group created by this section.
- (6) The work group is required to hold a minimum of five meetings, at diverse locations throughout the state, to gather public input regarding the group's proposed legislation.
- (7) This section expires June 30, 2007.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2006, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Chandler; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hinkle; Hunter; Kagi; Kenney; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

ESB 5232 Prime Sponsor, Senator Oke: Requiring a turkey tag to hunt for turkey. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Chandler; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 5236 Prime Sponsor, Senate Committee On Ways & Means: Providing additional funding to the prevailing wage program of the department of labor and industries by discontinuing the transfer of moneys from the public works administration account to the general fund-state account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Chandler; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

2SSB 5333 Prime Sponsor, Senate Committee On Government Operations & Elections: Modifying requirements for voter-approved regular property tax levies. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.55.050 and 2003 1st sp.s. c 24 s 4 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made, except as provided in subsection ~~((3)(b))~~ (2) of this section. The ballot title of the proposition shall state the dollar rate proposed and shall clearly state ~~((any))~~ the conditions, if any, which are applicable under subsection ~~((3))~~ (4) of this section.

(2) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the specific purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used.

~~(3)~~ After a levy authorized pursuant to this section is made, the dollar amount of such levy shall be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, except as provided in subsection ~~((s (3) and (4)))~~ (5) of this section.

~~((3))~~ (4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Limit the period for which the increased levy is to be made;

~~(b) ((Subject to statutory dollar limitations in RCW 84.52.043, authorize annual increases in levies for any county, city, or town for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the specific purposes for which the proposed levy increase shall be used, and funds raised under this levy shall not supplant existing funds used for these purposes;~~

~~(c))~~ Limit the purpose for which the increased levy is to be made, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

~~((d))~~ (c) Set the levy at a rate less than the maximum rate allowed for the district; or

~~((e))~~ Provide that the maximum allowable dollar amount of the final annual levy of the period specified in the measure shall be used to compute the limitations provided for in this chapter on levy increases occurring after the expiration of the period; or

~~((f))~~ (d) Include any combination of the conditions in this subsection.

~~((4))~~ (5) Except as otherwise provided in an approved ballot measure under this section, after the expiration of a limited period under subsection (4)(a) of this section or the satisfaction of a limited purpose under subsection (4)(b) of this section, whichever comes first, subsequent levies shall be computed as if:

(a) The limited proposition under subsection ~~((3))~~ (4) of this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the limited proposition."

Correct the title.

Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Conway; Ericks; Hasegawa and Santos.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern; Condotta and Shabro.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 5385 Prime Sponsor, Senate Committee On Natural Resources, Ocean & Recreation: Creating the Washington invasive species council. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) The land, water, and other resources of Washington are being severely impacted by the invasion of an increasing number of harmful invasive plant and animal species.

(2) These impacts are resulting in damage to Washington's environment and causing economic hardships.

(3) The multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Washington need a mechanism for cooperation, communication, collaboration, and developing a statewide plan of action to meet these threats.

NEW SECTION. Sec. 2. (1) There is created the Washington invasive species council to exist until December 31, 2011. Staff support to the council shall be provided by the committee and from the agencies represented on the council. For administrative purposes, the council shall be located within the committee.

(2) The purpose of the council is to provide policy level direction, planning, and coordination for combating harmful invasive species throughout the state and preventing the introduction of others that may be potentially harmful.

(3) The council is a joint effort between local, tribal, state, and federal governments, as well as the private sector and nongovernmental interests. The purpose of the council is to foster cooperation, communication, and coordinated approaches that support local, state, and regional initiatives for the prevention and control of invasive species.

(4) For the purposes of this chapter, "invasive species" include nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. "Invasive species" does not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms.

NEW SECTION. Sec. 3. (1) Membership in the council includes a representative from the following entities:

- (a) The department of agriculture, represented by the director or the director's designee;
 - (b) The department of fish and wildlife, represented by the director or the director's designee;
 - (c) The department of ecology, represented by the director or the director's designee;
 - (d) The department of natural resources, represented by the commissioner or the commissioner's designee;
 - (e) The department of transportation, represented by the secretary or the secretary's designee;
 - (f) The Washington state noxious weed control board, appointed by the board;
 - (g) A county located east of the crest of the Cascade mountains, appointed by the other members of the council; and
 - (h) A county located west of the crest of the Cascade mountains, appointed by the other members of the council.
- (2) The councilmembers may add members to the council as the councilmembers deem appropriate to accomplish its goals.

(3) The council must invite one representative each from the United States department of agriculture, the United States fish and wildlife service, the United States environmental protection agency, and the United States coast guard to participate on the council in a nonvoting, ex officio capacity.

(4) A representative of the office of the governor must convene the first meeting of the council and serve as chair until the council selects a chair. At the first meeting of the council, the council shall address issues including, but not limited to, voting methods, meeting schedules, and the need for and use of advisory and technical committees.

NEW SECTION. Sec. 4. The council's goals are to:

- (1) Minimize the effects of harmful invasive species on Washington's citizens and ensure the economic and environmental well-being of the state;
- (2) Serve as a forum for identifying and understanding invasive species issues from all perspectives;
- (3) Serve as a forum to facilitate the communication, cooperation, and coordination of local, tribal, state, federal, private, and nongovernmental entities for the prevention, control, and management of nonnative invasive species;
- (4) Serve as an avenue for public outreach and for raising public awareness of invasive species issues;
- (5) Develop and implement a statewide invasive species strategic plan as described in this chapter;
- (6) Review the current funding mechanisms and levels for state agencies to manage noxious weeds on the lands under their authority;
- (7) Make recommendations for legislation necessary to carry out the purposes of this chapter;
- (8) Establish criteria for the prioritization of invasive species response actions and projects; and
- (9) Utilizing the process described in subsection (8) of this section, select at least one project per year from the strategic plan for coordinated action by the Washington invasive species councilmember entities.

NEW SECTION. Sec. 5. (1) The council shall develop and periodically update a statewide strategic plan for addressing invasive species. The strategic plan should incorporate the reports and activities of the aquatic nuisance species committee, the state noxious weed control board, and other appropriate reports and activities. In addition, the council must coordinate with the biodiversity council created in Executive Order 04-02 to ensure that a statewide strategy for the control of invasive species is integrated into the thirty-year strategy for biodiversity conservation that the biodiversity council must submit to the legislature in 2007.

- (2) The strategic plan must, at a minimum, address:
 - (a) Statewide coordination and intergovernmental cooperation;
 - (b) Prevention of new biological invasions through deliberate or unintentional introduction;
 - (c) Inventory and monitoring of invasive species;
 - (d) Early detection of and rapid response to new invasions;
 - (e) Control, management, and eradication of established populations of invasive species;
 - (f) Projects that can be implemented during the period covered by the strategic plan for the control, management, and eradication of new or established populations of invasive species;
 - (g) Revegetation, reclamation, or restoration of native species following control or eradication of invasive species;
 - (h) Tools that can be made available to assist state agencies that are responsible for managing public land to control invasive noxious weeds and recommendations as to how the agencies should be held responsible for the failure to control invasive noxious weeds;
 - (i) Research and public education;
 - (j) Funding and resources available for invasive species prevention, control, and management; and
 - (k) Recommendations for legislation necessary to carry out the purposes of this chapter.

(3) The strategic plan must be updated at least once every three years following its initial development. The strategic plan must be submitted to the governor and appropriate committees of the legislature by September 15th of each applicable year. The council shall complete the initial strategic plan within two years of the effective date of this section.

(4) Each state department and agency named to the council shall, consistent with state law, make best efforts to implement elements of the completed plan that are applicable to the department or agency.

NEW SECTION. Sec. 6. (1) The council shall submit an annual report of its activities to the governor and the relevant policy committees of the senate and house of representatives by December 15th of each year. The annual report must include an evaluation of progress made in

the preceding year to implement or carry out the strategic plan and an identification of projects from the strategic plan that will be a focus for the following year.

(2) Prior to the start of the 2011 legislative session, the council must prepare a report to the appropriate committees of the legislature that makes recommendations as to the extension or modification of the council.

NEW SECTION. **Sec. 7.** The council may establish advisory and technical committees that it considers necessary to aid and advise the council in the performance of its functions. The committees may be continuing or temporary committees. The council shall determine the representation, membership, terms, and organization of the committees and appoint their members.

NEW SECTION. **Sec. 8.** The invasive species council account is created in the custody of the state treasurer. All receipts from appropriations, gifts, grants, and donations must be deposited into the account. Expenditures from the account may be used only to carry out the purposes of the council. The account is subject to allotment procedures under chapter 43.88 RCW and the approval of the director of the committee is required for expenditures. All expenditures must be directed by the council.

Sec. 9. RCW 79A.25.010 and 1989 c 237 s 2 are each amended to read as follows:

Definitions: As used in this chapter:

(1) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(2) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and shall also mean Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(3) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter 82.36 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(4) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water.

(5) "Committee" means the interagency committee for outdoor recreation.

(6) "Director" means the director of the interagency committee for outdoor recreation.

(7) "Council" means the Washington invasive species council created in section 2 of this act.

NEW SECTION. **Sec. 10.** Section 8 of this act expires December 31, 2011.

NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act are each added to chapter 79A.25 RCW."

Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Conway; Ericks; Hasegawa and Santos.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern; Condotta and Shabro.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6166 Prime Sponsor, Senate Committee On Financial Institutions, Housing & Consumer Protection: Regulating mortgage brokers and loan originators. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Chandler; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hinkle; Hunter; Kagi; Kenney; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6188 Prime Sponsor, Senate Committee On Health & Long-Term Care: Providing health benefit plans offering coverage for prostate cancer screening. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) Each plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is issued or renewed after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 2. A new section is added to chapter 48.20 RCW to read as follows:

(1) Each disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 3. A new section is added to chapter 48.21 RCW to read as follows:

(1) Each group disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 4. A new section is added to chapter 48.44 RCW to read as follows:

(1) Each health care service contract issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 5. A new section is added to chapter 48.46 RCW to read as follows:

(1) Each health maintenance agreement issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) All services must be provided by the health maintenance organization or rendered upon a referral by the health maintenance organization.

(3) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 6. A new section is added to chapter 48.125 RCW to read as follows:

(1) Each self-funded multiple employer welfare arrangement established, operated, providing benefits, or maintained in this state after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a self-funded multiple employer welfare arrangement to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

NEW SECTION. Sec. 7. A new section is added to chapter 70.47 RCW to read as follows:

(1) Any schedule of benefits established or renewed by the Washington basic health plan after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

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

The department shall provide coverage for prostate cancer screening under this chapter, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant."

Correct the title.

Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Buri; Clements; Cody; Conway; Darneille; Dunshee; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6244 Prime Sponsor, Senate Committee On Water, Energy & Environment: Changing provisions relating to oil spill prevention, preparedness, and response. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 88.46 RCW to read as follows:

(1) The department's rules authorized under RCW 88.46.160 and this section shall be scaled to the risk posed to people and to the environment, and be categorized by type of transfer, volume of oil, frequency of transfers, and such other risk factors as identified by the department.

(2) The rules may require prior notice be provided before an oil transfer, regulated under this chapter, occurs in situations defined by the department as posing a higher risk. The notice may include the time, location, and volume of the oil transfer. The rules may not require prior notice when marine fuel outlets are transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel and the transfers are scheduled less than four hours in advance.

(3) The department may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

(4) The rules may require additional measures to be taken in conjunction with the deployment of containment equipment or with the alternatives to deploying containment equipment. However, these measures must be scaled appropriately to the risks posed by the oil transfer.

(5) The rules shall include regulations to enhance the safety of oil transfers over water originating from vehicles transporting oil over private roads or highways of the state.

NEW SECTION. Sec. 2. A new section is added to chapter 88.46 RCW to read as follows:

In addition to other inspection authority provided for in this chapter and chapter 90.56 RCW, the department may conduct inspections of oil transfer operations regulated under RCW 88.46.160 or section 1 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 88.46 RCW to read as follows:

If the director believes a person has violated or is violating or creates a substantial potential to violate the provisions of any rules adopted under this chapter, the director may institute such actions as authorized under RCW 88.46.070 (2) and (3).

NEW SECTION. Sec. 4. A new section is added to chapter 88.46 RCW to read as follows:

The department shall by rule adopt procedures to determine the adequacy of contingency plans approved under RCW 88.46.060. The rules shall require random practice drills without prior notice that will test the adequacy of the responding entities. The rules may provide for unannounced practice drills of individual contingency plans. The department shall review and publish a report on the drills, including an assessment of response time and available equipment and personnel compared to those listed in the contingency plans relying on the responding entities, and requirements, if any, for changes in the plans or their implementation. The department may require additional drills and changes in arrangements for implementing approved plans which are necessary to ensure their effective implementation.

NEW SECTION. Sec. 5. 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."

Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Buri; Clements; Cody; Conway; Darneille; Dunshee; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6247 Prime Sponsor, Senate Committee On Transportation: Providing uniform administration of locally imposed motor vehicle excise taxes. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6255 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Improving student performance through student-centered planning. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6280 Prime Sponsor, Senator Regala: Removing the irrevocable dedication requirement for exemption from property taxes for nonprofit entities. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern; Condotta; Ericks; Hasegawa; Santos and Shabro.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6287 Prime Sponsor, Senate Committee On Transportation: Authorizing special parking privileges for the legally blind. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 1, after line 3, insert the following:

"**NEW SECTION. Sec. 1.** The legislature reaffirms its recognition that legal blindness does not affect the physical ability to walk, nor does it limit the ability to participate and contribute in employment and all aspects of life as an equal and productive citizen. Furthermore, for a legally blind individual with appropriate training in travel skills, any limitations on that individual's mobility are not resolved by the granting of special parking privileges. However, for some individuals, including the newly blind and those in transition, the availability of special parking privileges could prove to be an appropriate benefit if those individuals choose to avail themselves of the opportunity."

Renumber the remaining section consecutively and correct the title.

Signed by Representatives Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Murray, Chairman; Morris.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6338 Prime Sponsor, Senator Haugen: Regarding the property tax exemption for seniors and for persons retired due to disability. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern; Condotta; Ericks; Hasegawa; Santos and Shabro.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6369 Prime Sponsor, Senate Committee On Ways & Means: Providing excise tax exemptions for water services provided by small water systems. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Orcutt, Ranking Minority Member; Ahern; Condotta; Ericks; Hasegawa and Santos.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6415 Prime Sponsor, Senator Pridemore: Allowing interpreters to assist hearing impaired persons during driver's license examinations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 2, beginning on line 2, strike "and at the applicant's expense" and insert "from a list provided by the department of licensing"

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6475 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Authorizing alternative methods of assessment and appeal processes for the certificate of academic achievement. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

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

(1) The legislature has made a commitment to rigorous academic standards for receipt of a high school diploma. The primary way that students will demonstrate that they meet the standards in reading, writing, mathematics, and science is through the Washington assessment of student learning. Only objective assessments that are comparable in rigor to the state assessment are authorized as an alternative assessment. Before seeking an alternative assessment, the legislature expects students to make a genuine effort to meet state standards, through retaking the Washington assessment of student learning; regular and consistent attendance at school; and participation in extended learning and other assistance programs.

(2) Under RCW 28A.655.061, beginning in the 2006-07 school year, the superintendent of public instruction shall implement three objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school Washington assessment of student learning. A student may access an alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and other eligibility criteria established by the superintendent of public instruction, including but not limited to a ninety-five percent minimum attendance criterion and required participation in the remediation or supplemental instruction contained in the student learning plan developed under RCW 28A.655.061. A school district may waive the attendance and remediation requirement for special, unavoidable circumstances.

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

(4) The primary alternative assessment method shall be a combination of the applicant's grades in applicable courses and the applicant's highest score on the high school Washington assessment of student learning, as provided in this subsection.

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

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

(c) An applicant may not use the alternative assessment under this subsection (4) if there are fewer than six students in the comparison cohort.

(5) The superintendent of public instruction shall also develop an alternative assessment method that shall be an evaluation of a collection of work samples prepared and submitted by the applicant, as provided in this subsection and, for career and technical applicants, the additional requirements of subsection (6) of this section. The collection of work samples may be implemented as an alternative assessment if there are fewer than six students in the applicant's comparison cohort under subsection (4) of this section or if the applicant is enrolled in a career and technical program approved under section 2 of this act. The collection of work samples may be implemented as an alternative assessment for other applicants only if formally approved by the legislature through the omnibus appropriations act, statute, or concurrent resolution.

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

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

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

(6)(a) For students enrolled in a career and technical education program approved under section 2 of this act, the superintendent of public instruction shall develop guidelines for a collection of work samples that evidences that the collection:

- (i) Is relevant to the student's particular career and technical program;
- (ii) Focuses on the application of academic knowledge and skills within the program;
- (iii) Includes completed activities or projects where demonstration of academic knowledge is inferred; and
- (iv) Is related to the essential academic learning requirements and state standards that students must meet to earn a certificate of academic achievement or certificate of individual achievement, but also represents the knowledge and skills that successful individuals in the career and technical field of the approved program are expected to possess.

(b) To meet the state standard on the alternative assessment under this subsection (6), an applicant must also attain the state or nationally recognized certificate or credential associated with the approved career and technical program.

(c) The superintendent shall consult with community and technical colleges, employers, the work force training and education coordinating board, apprenticeship programs, and other regional and national experts in career and technical education to create an appropriate collection of work samples and other evidence of a career and technical student's knowledge and skills on the state academic standards.

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

(8) The superintendent of public instruction shall implement:

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

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and to the certificate of individual achievement for students who: (i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or (ii) have special, unavoidable circumstances.

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

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

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

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

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

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

NEW SECTION. Sec. 3. By September 2006, the superintendent of public instruction shall report the following, in detail, to the education committees of the legislature:

- (1) Results of the pilot testing of the alternative assessments authorized under section 1 of this act;
- (2) The proposed guidelines, protocols, and procedures to be used by the superintendent in implementing the alternative assessments, particularly the collection of evidence;
- (3) A description of the training to be provided for school districts, educators serving on scoring panels, and teachers assisting students with collections of evidence;
- (4) Preliminary results of the feasibility study in section 1(7) of this act; and
- (5) Updated estimates of the number of students likely to be eligible or apply for either alternative assessment method.

Sec. 4. RCW 28A.655.061 and 2004 c 19 s 101 are each amended to read as follows:

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

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

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection ~~((H))~~ (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has retaken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement. ~~((The student's transcript shall note whether the certificate of academic achievement was acquired by means of the Washington assessment of student learning or by an alternative assessment.))~~

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

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

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

~~(7) ((Beginning with the graduating class of 2006, the highest scale score and level achieved in each content area on the high school Washington assessment of student learning shall be displayed on a student's transcript. In addition, beginning with the graduating class of 2008, each student shall receive a scholar's designation on his or her transcript for each content area in which the student achieves level four the first time the student takes that content area assessment.~~

~~—((8))~~ Beginning in 2006, school districts must make available to students the following options:

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

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

~~((9))~~ (8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

~~((10))~~ (9) Subject to available funding, the superintendent shall pilot opportunities for retaking the high school assessment beginning in the 2004-05 school year. Beginning no later than September 2006, opportunities to retake the assessment at least twice a year shall be available to each school district.

~~((11))~~ (10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

~~((12))~~ (b) After formal approval by the legislature of the score required for this purpose, a student's score on the mathematics portion of the preliminary scholastic assessment test (PSAT), the scholastic assessment test (SAT), or the American college test (ACT) may be used as an objective alternative assessment under this section for demonstrating that a student has met the mathematics standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the mathematics portion of the PSAT, SAT, or ACT to meet the state standard for mathematics and shall submit the proposed scores, along with any subsequent revisions, to the legislature for formal approval through the appropriations act or by statute or concurrent resolution. The state board of education shall submit the first proposed scores to the legislature by December 1, 2006.

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

~~((13))~~ (12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for students as provided in this subsection ~~((13))~~ (12).

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

(i) Beginning no later than the 2004-05 school year ninth grade students as described in this subsection ~~((13))~~ (12)(a) shall have a plan.

(ii) Beginning no later than the 2005-06 school year and every year thereafter eighth grade students as described in this subsection ~~((13))~~ (12)(a) shall have a plan.

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

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

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

(i) The parent or guardian of a student described in this subsection ~~((13))~~ (12)(b) shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

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

NEW SECTION. Sec. 5. A new section is added to chapter 28A.655 RCW to read as follows:

Subject to the availability of funds appropriated for this purpose, school districts shall reimburse students for the cost of taking the tests in RCW 28A.655.061(10)(b) when the students take the tests for the purpose of using the mathematics results as an objective alternative assessment.

Sec. 6. RCW 28A.305.220 and 2004 c 19 s 108 are each amended to read as follows:

(1) The state board of education shall develop for use by all public school districts a standardized high school transcript. The state board of education shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include ~~((the following information:~~

~~—(a) the highest scale score and level achieved in each content area on the high school Washington assessment of student learning or other high school measures successfully completed by the student as provided by RCW 28A.655.061 and 28A.155.045;~~

~~—(b) All scholar designations as provided by RCW 28A.655.061;~~

~~—(c)) a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement ((by means of the Washington assessment of student learning or by an alternative assessment)).~~

(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act and section 5 of this act, referencing this act and section 5 of this act by bill or chapter number and section number, is not provided by June 30, 2006, in the omnibus appropriations act, section 5 of this act is null and void."

Correct the title.

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist;

Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6527 Prime Sponsor, Senate Committee On Transportation: Extending the negotiation period for the Milwaukee Road trail. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 1, line 11, after "over" insert "the"

On page 1, line 11, after "corridor" insert "between Ellensburg and Lind"

On page 2, line 13, after "commission" insert "as of the effective date of this act"

On page 2, line 24, after "over" insert "the"

On page 2, line 25, after "corridor" insert "between Ellensburg and Lind"

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

ESB 6537 Prime Sponsor, Senator Kohl-Welles: Modifying requirements for the direct sale of wine to Washington state consumers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hinkle; Hunter; Kagi; Kenney; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6549 Prime Sponsor, Senator Benson: Modifying commercial vehicle provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6566 Prime Sponsor, Senate Committee On Transportation: Revising commute trip reduction provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.94.524 and 1991 c 202 s 11 are each amended to read as follows:

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

(1) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(2) "Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights of way, and at which there are one hundred or more full-time employees (~~(of one or more employers)~~), who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months.

(3) (~~"Commuter trip reduction zones" mean areas, such as census tracts or combinations of census tracts, within a jurisdiction that are characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of single occupancy vehicle commuting.~~

~~(4))~~ "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

~~(4)~~ "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

~~(5)~~ "Commuter trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

~~((5))~~ (6) "Proportion of single-occupant vehicle commute trips" means the number of commuter trips made by single-occupant automobiles divided by the number of full-time employees.

~~((6))~~ (7) "Commuter trip vehicle miles traveled per employee" means the sum of the individual vehicle commuter trip lengths in miles over a set period divided by the number of full-time employees during that period.

~~((7))~~ (8) "Base year" means the ~~((year January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled and single-occupant vehicle trips shall be based. Base year goals may be determined using the 1990 journey-to-work census data projected to the year 1992 and shall be consistent with the growth management act. The task force shall establish a method to be used by jurisdictions to determine reductions of vehicle miles traveled))~~ twelve-month period commencing when a major employer is determined to be participating by the local jurisdiction, on which commuter trip reduction goals shall be based.

(9) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commuter trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(10)(a) "Affected urban growth area" means:

(i) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(ii) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commuter trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(b) Affected urban growth areas will be listed by the department of transportation in the rules for this act using the criteria identified in (a) of this subsection.

(11) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

Sec. 2. RCW 70.94.527 and 1997 c 250 s 2 are each amended to read as follows:

(1) Each county ~~((with a population over one hundred fifty thousand, and each city or town within those counties containing a major employer shall, by October 1, 1992, adopt by ordinance and implement a commuter trip reduction plan for all major employers. The plan shall be developed in cooperation with local transit agencies, regional transportation planning organizations as established in RCW 47.80.020, major employers, and the owners of and employers at major worksites))~~ containing an urban growth area, as defined by RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commuter trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commuter trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commuter trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commuter trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commuter trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, as defined by RCW 36.70A.110, shall adopt a commuter trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commuter trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commuter trips and ~~((the commuter trip vehicle miles traveled per employee by employees of major public and private sector employers in the jurisdiction))~~ be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commuter trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537.

(2) All other counties, ~~((and))~~ cities, and towns ~~((in those counties;))~~ may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70.94.537. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the ~~((guidelines))~~ rules established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips ~~((and the commute trip vehicle miles traveled per employee))~~ consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) ~~((designation of commute trip reduction zones; (e)))~~ a description of the requirements for major public and private sector employers to implement commute trip reduction programs; ~~((d))~~ (c) a commute trip reduction program for employees of the county, city, or town; ~~((e) a review of local parking policies and ordinances as they relate to employers and major worksites and any revisions necessary to comply with commute trip reduction goals and guidelines; (f) an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements; and (g))~~ and (d) means, consistent with rules established by the department of transportation, for determining base year values ((of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee)) and progress toward meeting commute trip reduction plan goals ((on an annual basis. Goals which are established shall take into account existing transportation demand management efforts which are made by major employers. Each jurisdiction shall ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year. The goals for miles traveled per employee for all major employers shall not be less than a fifteen percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, twenty percent reduction from the base year values by January 1, 1997, twenty-five percent reduction from the base year values by January 1, 1999, and a thirty-five percent reduction from the base year values by January 1, 2005.

~~((5))~~ (5) A county, city, or town may, as part of its commute trip reduction plan, require commute trip reduction programs for employers with ten or more full-time employees at major worksites in federally designated nonattainment areas for carbon monoxide and ozone. ~~The county, city or town shall develop the programs in cooperation with affected employers and provide technical assistance to the employers in implementing such programs).~~ The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

~~((6))~~ (5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, ~~((or))~~ and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70.94.537. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by commute trip reduction board as established under RCW 70.94.537. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each ~~((county, city, or town))~~ regional transportation planning organization implementing a regional commute trip reduction program shall, ~~((within thirty days submit a summary of its plan along with certification of adoption))~~ consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and

transportation efficiency center programs, to the commute trip reduction ((task force)) board established under RCW 70.94.537. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each ((county, city, or town)) regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction ((task force)) board established under RCW 70.94.537. The report shall be due ((July 1, 1994, and each July 1st thereafter through July 1, 2006)) at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals ((for each commute trip reduction zone)) and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction ((task force)) board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction ((task force)) board established under RCW 70.94.537. The commute trip reduction ((task force)) board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) ~~((Each county, city, or town implementing a commute trip reduction program shall count commute trips eliminated through work-at-home options or alternate work schedules as one and two-tenths vehicle trips eliminated for the purpose of meeting trip reduction goals.~~

~~— (11) Each county, city, or town implementing a commute trip reduction program shall ensure that employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating single-occupancy vehicle use and vehicle miles traveled at that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved commute trip reduction program or if the schedule change occurred because of impacts associated with chapter 36.70A RCW, the growth management act.~~

~~— ((12)) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.~~

~~— ((13)) (11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.~~

(12) If an affected urban growth area has not previously implemented a commute trip reduction program, and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

NEW SECTION. Sec. 3. A new section is added to chapter 70.94 RCW to read as follows:

Nothing in this act preempts the ability of state employees to collectively bargain over commute trip reduction issues, including parking fees under chapter 41.80 RCW, or the ability of private sector employees to collectively bargain over commute trip reduction issues if previously such issues were mandatory subjects of collective bargaining.

NEW SECTION. Sec. 4. A new section is added to chapter 70.94 RCW to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70.94.537(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70.94.537.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

Sec. 5. RCW 70.94.531 and 1997 c 250 s 3 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 as private employers.

~~(2)~~ Not more than ~~(six months)~~ ninety days after the adoption of ~~(the)~~ a jurisdiction's commute trip reduction plan ~~(by a jurisdiction)~~, each major employer in that jurisdiction shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ~~(six months)~~ ninety days after ~~(submission to)~~ approval by the jurisdiction.

~~((2))~~ (3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) ~~(an annual)~~ a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

- (i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;
- (ii) Instituting or increasing parking charges for single-occupant vehicles;
- (iii) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
- (iv) Provision of subsidies for transit fares;
- (v) Provision of vans for van pools;
- (vi) Provision of subsidies for car pooling or van pooling;
- (vii) Permitting the use of the employer's vehicles for car pooling or van pooling;
- (viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;
- (ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;
- (x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;
- (xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- (xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;
- (xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;
- (xiv) Establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and
- (xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services.

~~((3))~~ (4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

~~((4))~~ (5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)~~((5))~~ (d).

Sec. 6. RCW 70.94.534 and 1997 c 250 s 4 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ~~(three months)~~ ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531; ~~(and)~~

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall ~~(annually)~~ review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip

reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction ~~((task force))~~ board authorized under RCW 70.94.537.

Sec. 7. RCW 70.94.537 and 1997 c 250 s 5 are each amended to read as follows:

(1) A ~~((twenty-eight))~~ sixteen member state commute trip reduction ~~((task force))~~ board is established as follows:

(a) The secretary of the department of transportation or the secretary's designee who shall serve as chair;

(b) ~~((The director of the department of ecology or the director's designee;~~

~~— (c) The director of the department of community, trade, and economic development or the director's designee;~~

~~— (d) The director of the department of general administration or the director's designee;~~

~~— (e) Three representatives from))~~ One representative from the office of the governor or the governor's designee;

~~— (c) The director or the director's designee of one of the following agencies, to be determined by the governor:~~

~~— (i) Department of general administration;~~

~~— (ii) Department of ecology;~~

~~— (iii) Department of community, trade, and economic development;~~

~~— (d) Three representatives from cities and towns or counties appointed by the governor for staggered four-year terms from a list ((of at least six)) recommended by the association of Washington cities or the Washington state association of counties;~~

~~— ((f) Three representatives from cities and towns appointed by the governor from a list of at least six recommended by the association of Washington cities;~~

~~— (g) Three))~~ (e) Two representatives from transit agencies appointed by the governor for staggered four-year terms from a list ~~((of at least six))~~ recommended by the Washington state transit association;

~~— ((h) Twelve))~~ (f) Two representatives from participating regional transportation planning organizations appointed by the governor for staggered four-year terms;

~~— (g) Four~~ representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed by the governor ~~((from a list recommended by the association of Washington business or other statewide business associations representing major employers, provided that every affected county shall have at least one representative; and~~

~~— (i) Three))~~ for staggered four-year terms; and

~~— (h) Two~~ citizens appointed by the governor for staggered four-year terms.

Members of the commute trip reduction ~~((task force))~~ board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the governor shall be compensated in accordance with RCW 43.03.220. The ~~((task force))~~ board has all powers necessary to carry out its duties as prescribed by this chapter. ~~((The task force shall be dissolved on July 1, 2006.))~~

(2) By March 1, ~~((1992))~~ 2007, the ~~((commute trip reduction task force))~~ department of transportation shall establish ~~((guidelines))~~ rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The ~~((guidelines))~~ rules are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the ~~((task force))~~ board determines to be relevant. The ~~((guidelines))~~ rules shall include:

(a) Guidance criteria for ((establishing commute trip reduction zones)) growth and transportation efficiency centers;

(b) ~~((Methods and information requirements for determining base year values of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee))~~ Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) ~~((Methods to ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year;~~

~~— (g) Alternative commute trip reduction goals for major employers which cannot meet the goals of this chapter because of the unique nature of their business;~~

~~— (h) Alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in a trip reduction zone; and~~

~~— (i) Methods to insure that employers receive credit for scheduling changes enacted pursuant to the criteria identified in RCW 70.94.527(11).~~

~~— ((3))~~ Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070.

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The ((task force)) board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

~~((4) The task force shall assess the commute trip reduction options available to employers other than major employers and make recommendations to the legislature by October 1, 1992. The recommendations shall include the minimum size of employer who shall be required to implement trip reduction programs and the appropriate methods those employers can use to accomplish trip reduction goals.))~~

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by this act in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) The ((task force)) board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, ((1995, December 1, 1999, December 1, 2001, December 1, 2003, and December 1, 2005)) 2009, and every two years thereafter. In assessing the costs and benefits, the ((task force)) board shall consider the costs of not having implemented commute trip reduction plans and programs with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW. The ((task force)) board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter. ((The recommendations made December 1, 1995, shall include recommendations regarding extension of the requirements of this chapter to employers with fifty or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous months.))

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

Sec. 8. RCW 70.94.541 and 1996 c 186 s 515 are each amended to read as follows:

(1) ((A technical assistance team shall be established under the direction of the department of transportation and include representatives of the department of ecology.)) The ((team)) department of transportation shall provide staff support to the commute trip reduction ((task force)) board in carrying out the requirements of RCW 70.94.537 ((and to the department of general administration in carrying out the requirements of RCW 70.94.551)).

(2) The ((team)) department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, and towns, the department of general administration, other state agencies, and other employers in developing and implementing commute trip reduction plans and programs. The technical assistance shall include: (a) Guidance in ((determining base and subsequent year values of single-occupant vehicle commuting proportion and commute trip reduction vehicle miles traveled to be used in determining progress in attaining plan goals)) single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.

Sec. 9. RCW 70.94.544 and 2001 c 74 s 1 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction ((~~task force~~) board in carrying out the responsibilities of RCW ((~~70.94.544~~) 70.94.537, and the ((~~interagency technical assistance team~~) department of transportation, including the activities authorized under RCW 70.94.541(2), and to assist regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction plans, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537.

Sec. 10. RCW 70.94.547 and 1991 c 202 s 18 are each amended to read as follows:

The legislature hereby recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs. Therefore, it is the policy of the state that the department of general administration and other state agencies, including institutions of higher education, shall aggressively develop substantive programs to reduce commute trips by state employees. Implementation of these programs will reduce energy consumption, congestion in urban areas, and air and water pollution associated with automobile travel.

Sec. 11. RCW 70.94.551 and 1997 c 250 s 6 are each amended to read as follows:

(1) The director of ((~~general administration, with the concurrence of an interagency task force established for the purposes of this section, shall coordinate a commute trip reduction plan for state agencies which are phase 1 major employers by January 1, 1993~~) the department of general administration may coordinate an interagency board for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531. The ((~~task force~~) board shall include representatives of the departments of transportation ((~~and~~) ecology, and community, trade, and economic development and such other departments and interested groups as the director of the department of general administration determines to be necessary ((~~to be generally representative of state agencies. The state agency plan shall be consistent with the requirements of RCW 70.94.527 and 70.94.531 and shall be developed in consultation with state employees, local and regional governments, local transit agencies, the business community, and other interested groups. The plan shall consider and recommend~~)). Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The ((~~plan~~) policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs. ((~~The department shall, within thirty days, submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.~~))

(2) ((~~Not more than three months after the adoption of the commute trip reduction plan, each state agency shall, for each facility which is a major employer, develop a commute trip reduction program. The program shall be designed to meet the goals of the commute trip reduction plan of the county, city, or town or, if there is no local commute trip reduction plan, the state. The program shall be consistent with the policies of the state commute trip reduction plan and RCW 70.94.531. The agency shall submit a description of that program to the local jurisdiction implementing a commute trip reduction plan or, if there is no local commute trip reduction plan, to the department of general administration. The program shall be implemented not more than three months after submission to the department. Annual reports required in RCW 70.94.531(2)(c) shall be submitted to the local jurisdiction implementing a commute trip reduction plan and to the department of general administration. An agency which is not meeting the applicable commute trip reduction goals shall, to the extent possible, modify its program to comply with the recommendations of the local jurisdiction or the department of general administration.~~))

—((~~3~~)) State agencies sharing a common location ((~~may~~) in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of general administration, develop and implement a joint commute trip reduction program ((~~or may delegate the development and implementation of the commute trip reduction program to the department of general administration~~)). The worksite shall be treated as specified in RCW 70.94.531 and 70.94.534.

((~~4~~) 3) The department of general administration ((~~in consultation with the state technical assistance team~~) shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the ((~~team~~) department of general administration will work with the agency to modify the program as necessary.

((~~5~~) For each agency subject to the state agency commute trip reduction plan, the department of general administration in consultation with the technical assistance team shall annually review progress toward meeting the applicable commute trip reduction goals. If it appears an agency is not meeting or is not likely to meet the applicable commute trip reduction goals, the team shall work with the agency to make modifications to the commute trip reduction program.

—((~~6~~) (4) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537, and recommendations for improving the program.

(5) The department of general administration shall review the agency performance reports defined in subsection (4) of this section and submit ((~~an annual progress~~) a biennial report for state agencies subject to ((~~the state agency commute trip reduction plan to the commute trip reduction task force established under RCW 70.94.537. The report shall be due April 1, 1993, and each April 1st through 2006. The report shall report progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals~~)) this chapter to the governor and incorporate the report in the commute trip reduction board

report to the legislature as directed in RCW 70.94.537(6). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537, and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction ((task force)) board."

Correct the title.

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6594 Prime Sponsor, Senate Committee On Ways & Means: Conforming Washington's tax structure to the streamlined sales and use tax agreement. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives McIntire, Chairman; Hunter, Vice Chairman; Condotta; Conway; Ericks; Hasegawa; Santos and Shabro.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern.

Passed to Committee on Rules for second reading.

February 23, 2006

SSB 6618 Prime Sponsor, Senate Committee On Early Learning, K-12 & Higher Education: Requiring a study to explore options to augment the current educational assessment system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. In 1993 the Washington legislature laid out a vision of a revitalized school system in Washington state. Envisioned was a comprehensive assessment system committed to high academic standards for all of its students. The Washington assessment of student learning was created as a tool to measure whether students were reaching the high academic standards. The legislature continues to support this assessment as a part of a comprehensive assessment system. Recently some alternative assessments have been developed. The legislature finds that there is interest in exploring why some students have not been able to meet the state standards and whether additional alternative methods, options, procedures, or performance measures could be used to augment the current system.

NEW SECTION. Sec. 2. (1) The Washington state institute for public policy shall conduct a study to explore options to augment the current system of assessments to provide additional opportunities for students to demonstrate that they have met the state learning standards. The study is limited to:

(a) A review and statistical analysis of Washington assessment of student learning data to increase understanding of the students who did not meet the standard in one or more areas of assessment, identify the characteristics of those students, and identify possible barriers to student success or possible causes of the lack of success;

(b) A review and identification of additional alternative assessment options that could be used to augment the current assessment system. In identifying the alternative assessment options, the institute shall include a review of alternative assessments used in other states as well as those that have been developed and those that have been proposed in Washington. The institute shall examine the use of national tests as well as career skill certification exams in their review of possible alternative assessment options. For each of the identified alternative assessment options, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the alternative assessment reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the alternative assessment is in compliance with RCW 28A.655.061(1); and

(v) Any challenges to implementation for each of the identified alternative assessment options, including any legislative action necessary for implementation;

(c) A review and identification of additional alternative methods, procedures, or combinations of performance measures, including those proposed in Washington, to assess whether students have met the state learning standards. For each of the identified alternative methods, procedures, or performance measures, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the method, procedure, or performance measure reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the method, procedure, or performance measure is in compliance with RCW 28A.655.061(1);

(v) Any challenges to implementation for each of the identified methods, procedures, or performance measures, including any legislative action necessary for implementation; and

(vi) Whether the procedures or methods could be standardized across the state.

(2) The Washington state institute for public policy shall provide an interim report to the legislature by December 1, 2006, and a final report by December 1, 2007. The interim report shall include a preliminary statistical analysis of the information required under subsection (1)(a) of this section and shall include recommendations on at least two alternative assessment options, alternative methods, procedures, or performance measures that were reviewed under subsection (1)(b) and (c) of this section. The final study shall include suggestions for any follow-up studies that the legislature could undertake to continue to build on the information obtained in this study.

(3) The institute shall consult, at a minimum, with nationally recognized experts on assessments including representatives from nationally recognized centers for multicultural education, representatives of the office of the superintendent of public instruction, educators, counselors, parents, the business community, classified employees, career and technical organizations, representatives of federally recognized Washington tribes, representatives of cultural, linguistic, and racial minority groups, and the community of persons with disabilities in developing the initial list of possible alternative assessment options, alternative assessment methods, procedures, or performance measures to be reviewed under subsection (1)(b) and (c) of this section.

(4) The office of the superintendent of public instruction and school districts shall provide the institute with access to all necessary data to conduct the studies in this act.

NEW SECTION. Sec. 3. This act shall be known as the Governor Booth Gardner Act."

Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Buri; Cody; Conway; Darneille; Dunshee; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; McDermott; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Anderson, Assistant Ranking Minority Member; Clements.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6679 Prime Sponsor, Senate Committee On Transportation: Introducing federal law preemption in regulating train speeds. (REVISED FOR ENGROSSED: Revising the provisions regulating train speeds.) Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6800 Prime Sponsor, Senate Committee On Transportation: Refining the roles of the transportation commission and department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.01.031 and 1988 c 167 s 11 are each amended to read as follows:

(1) There is created a department of state government to be known as the department of transportation.

(2) All powers, duties, and functions vested by law in the department of highways, the state highway commission, the transportation commission, the director of highways, the Washington toll bridge authority, the aeronautics commission, the director of aeronautics, and the canal commission, and the transportation related powers, duties, and functions of the ~~((planning and community affairs agency))~~ department of community, trade, and economic development, are transferred to the jurisdiction of the department, except those powers, duties, and functions which are expressly retained or directed elsewhere ~~((in this or in any other act of the 1977 legislature))~~.

(3) The board of pilotage commissioners is transferred to the jurisdiction of the department for its staff support and administration ~~((PROVIDED, That))~~. Nothing in this section shall be construed as transferring any policy making powers of the board of pilotage commissioners to the transportation commission or the department of transportation.

Sec. 2. RCW 47.01.051 and 1977 ex.s. c 151 s 5 are each amended to read as follows:

There is hereby created a transportation commission, which shall consist of seven members appointed by the governor, with the consent of the senate. ~~((The present five members of the highway commission shall serve as five initial members of the transportation commission until their terms of office as highway commission members would have expired. The additional two members provided herein for the transportation commission shall be appointed for initial terms to expire on June 30, 1982, and June 30, 1983. Thereafter))~~ All terms for commission members appointed after the effective date of this act shall be for ((six)) four years. No elective state official or state officer ~~((or state employee))~~ shall be a member of the commission, and not more than four members of the commission shall at the time of appointment or thereafter during their respective terms of office be members of the same major political party. At the time of appointment or thereafter during their respective terms of office, four members of the commission shall reside in the western part of the state and three members shall reside in the eastern part of the state as divided north and south by the summit of the Cascade mountains. No more than two members of the commission shall reside in the same county. Commissioners ~~((shall not))~~ may be removed from office by the governor before the expiration of their terms ~~((unless for a disqualifying change of residence or for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the superior court of the state of Washington in and for Thurston county upon petition and show cause proceedings duly brought therefor in said court and directed to the commissioner in question. No member shall be appointed for more than two consecutive terms))~~ for cause.

Sec. 3. RCW 47.01.061 and 2005 c 319 s 4 are each amended to read as follows:

(1) The commission shall meet at such times as it deems advisable ~~((but at least once every month. It may adopt its own rules and regulations and may establish its own procedure))~~. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary ~~((, and shall elect one of its members chairman for a term of one year))~~. The governor shall appoint the chair of the commission. The ~~((chairman shall be able to))~~ chair may vote on all matters before the commission. The commission may ~~((from time to time))~~ retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

(2) The commission shall submit to each regular session of the legislature held in an odd-numbered year and to the office of financial management its own budget proposal necessary for the commission's operations ~~((separate from that proposed for the department))~~.

(3) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the ~~((secretary of transportation))~~ chair, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the ~~((chairman of the commission))~~ chair who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

(4) Each member of the commission shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding any commission business.

Sec. 4. RCW 47.01.071 and 2005 c 319 s 5 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) ~~((To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:~~

~~— (a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;~~

~~— (b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;~~

~~— (c) Propose a transportation policy for the state;~~

~~— (d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature;~~

~~— (e) To integrate the statewide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;~~

~~— (2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;~~

~~(3))~~ In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

~~((4)) (2) To ((prepare a)) review, consider, and gather public input on the statewide comprehensive and balanced statewide transportation plan ((which shall be based on the transportation policy adopted by the governor and the legislature and applicable state and federal laws. The plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation, prior to each regular session of the legislature during an even-numbered year thereafter.~~

~~The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities)) prepared by the department as provided in RCW 47.01.101(12);~~

~~((5)) (3) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;~~

~~((6) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;~~

~~(7)) (4) To adopt such rules((regulations, and policy directives)) as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;~~

~~((8)) (5) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;~~

~~((9)) (6) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.~~

Sec. 5. RCW 47.01.075 and 2005 c 319 s 6 are each amended to read as follows:

(1) The transportation commission shall provide a forum ~~((for the development of))~~ to gather public input regarding transportation policy in Washington state, including input on the statewide comprehensive transportation plan. It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen ~~((and professional))~~ involvement in ~~((all))~~ transportation policy formulation ~~((and other matters related to the powers and duties of the department)).~~ It may ~~((further))~~ hold hearings and explore ways to improve the mobility of the citizenry. ~~((At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues.~~

~~(2) Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the statewide multimodal transportation progress report that outlines the transportation priorities of the ensuing biennium. The report must:~~

~~(a) Consider the citizen input gathered at the forums;~~

~~(b) Be developed with the assistance of state transportation-related agencies and organizations;~~

~~(c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, and key transportation stakeholders;~~

~~(d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;~~

~~(e) Be submitted by the commission to the governor by October 1st of each even-numbered year for consideration by the governor.~~

~~(3) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.~~

~~(4)) (2) In order to promote a better transportation system, the commission ((shall offer policy guidance and)) may make recommendations to the governor and the legislature in key issue areas, including but not limited to:~~

~~(a) Transportation finance;~~

~~(b) Preserving, maintaining, and operating the statewide transportation system;~~

~~(c) Transportation infrastructure needs;~~

~~(d) Promoting best practices for adoption and use by transportation-related agencies and programs;~~

~~(e) Transportation efficiencies that will improve service delivery and/or coordination;~~

~~(f) Improved planning and coordination among transportation agencies and providers; and~~

~~(g) Use of intelligent transportation systems and other technology-based solutions.~~

Sec. 6. RCW 47.01.091 and 1977 ex.s. c 151 s 9 are each amended to read as follows:

The secretary shall establish such advisory councils as are necessary to carry out the purposes of this ~~((1977 amendatory act))~~ title, and to insure adequate public participation in the planning and development of transportation facilities. Members of such councils shall serve at the pleasure of the secretary and may receive per diem and necessary expenses, in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended.

Sec. 7. RCW 47.01.101 and 2005 c 319 s 7 are each amended to read as follows:

The secretary shall have the authority and it shall be his or her duty:

(1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;

(2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;

(3) To designate and establish such transportation district, region, or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;

- (4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;
- (5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act(~~(except rules subject to adoption by the commission pursuant to statute)~~);
- (6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;
- (7) To provide, under contract or interagency agreement, (~~with~~) staff support on a reimbursable basis to the commission to assist it in carrying out its functions, powers, and duties;
- (8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation;
- (9) To advise the governor, the office of financial management, and the legislature with respect to matters under the jurisdiction of the department; (~~and~~)
- (10) To exercise all other powers and perform all other duties as are now or hereafter provided by law;
- (11) To integrate government performance and accountability tools in the planning, coordination, and performance of its duties, including, but not limited to, performance reviews, performance-based budgeting, and quality assessments; and
- (12) To prepare a comprehensive and balanced statewide transportation plan which shall be based on the transportation policy adopted by the legislature, applicable state and federal laws, and the biennial priorities of government as adopted by the governor. The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities. The secretary shall ensure that local and regional transportation issues are integrated and considered in the plan. The plan shall be submitted to the commission for its review and for it to gather public input.

Sec. 8. RCW 47.01.250 and 1998 c 245 s 92 are each amended to read as follows:

~~((The chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing are designated as official consultants to the transportation commission so that the goals and activities of their respective agencies which relate to transportation are fully coordinated with other related responsibilities of the department of transportation. In this capacity, the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing shall consult with the transportation commission and the secretary of transportation on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy.))~~

In order to develop fully integrated, balanced, and coordinated transportation plans, programs, and budgets the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing shall consult with the secretary of transportation on the matter of relative priorities during the development of their respective agencies' plans, programs, and budgets as they pertain to transportation activities.

Sec. 9. RCW 47.01.280 and 2005 c 319 s 121 are each amended to read as follows:

(1) Upon receiving an application for improvements to an existing state highway or highways pursuant to RCW 43.160.074 from the community economic revitalization board, the ~~((transportation commission))~~ department shall, in a timely manner, determine whether or not the proposed state highway improvements:

- (a) Meet the safety and design criteria of the department of transportation;
- (b) Will impair the operational integrity of the existing highway system; and
- (c) Will affect any other improvements planned by the department(~~(and~~
- ~~(d) Will be consistent with its policies developed pursuant to RCW 47.01.071)).~~

(2) Upon completion of its determination of the factors contained in subsection (1) of this section and any other factors it deems pertinent, the ~~((transportation commission))~~ department shall forward its approval, as submitted or amended or disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed development. If the ~~((transportation commission))~~ department disapproves any proposed improvements, it shall specify its reasons for disapproval.

(3) Upon notification from the board of an application's approval pursuant to RCW 43.160.074, the ~~((transportation commission))~~ department shall ~~((direct the department of transportation to))~~ carry out the improvements in coordination with the applicant.

Sec. 10. RCW 47.05.021 and 2005 c 319 s 8 are each amended to read as follows:

(1) The department shall conduct periodic analyses of the entire state highway system(~~(s))~~ and report to the ~~((commission))~~ office of financial management and the chairs of the transportation committees of the senate and house of representatives, any subsequent recommendations to subdivide, classify, and subclassify all designated state highways into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial statewide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) The ~~((transportation commission))~~ department shall adopt a functional classification of highways. The ~~((commission))~~ department shall consider ~~((the recommendations of the department and testimony))~~ comments from the public and local municipalities. The ~~((commission))~~ department shall give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

- (a) Urban population centers within and without the state stratified and ranked according to size;
- (b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;
- (c) Feasibility of the route, including availability of alternate routes within and without the state;
- (d) Directness of travel and distance between points of economic importance;
- (e) Length of trips;
- (f) Character and volume of traffic;
- (g) Preferential consideration for multiple service which shall include public transportation;
- (h) Reasonable spacing depending upon population density; and
- (i) System continuity.

(3) The ~~((transportation commission))~~ department or the legislature shall designate state highways of statewide significance under RCW 47.06.140. If the ~~((commission))~~ department designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature. This statewide system shall include at a minimum interstate highways and other statewide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The ~~((transportation commission))~~ department shall designate a freight and goods transportation system. This statewide system shall include state highways, county roads, and city streets. The ~~((commission))~~ department, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods.

Sec. 11. RCW 47.05.030 and 2005 c 319 s 9 are each amended to read as follows:

The ~~((transportation commission))~~ department, in consultation with the office of financial management, shall ~~((adopt))~~ develop a comprehensive ~~((ten-year))~~ sixteen-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. The ~~((adopted ten-year))~~ sixteen-year investment program must be forwarded as a recommendation to the governor and the legislature. In the specification of investment program objectives and performance measures, the ~~((transportation commission, in consultation with the Washington state))~~ department ~~((of transportation;))~~ shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. ~~((The investment program must be revised based on directions by the office of financial management.))~~ The investment program must be based upon the needs identified in the state-owned highway component of the statewide comprehensive transportation plan ~~((as defined in RCW 47.01.071(3)))~~.

(1) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life-cycle costing. The preservation program must require use of the most cost-effective pavement surfaces, considering:

- (a) Life-cycle cost analysis;
- (b) Traffic volume;
- (c) Subgrade soil conditions;
- (d) Environmental and weather conditions;
- (e) Materials available; and
- (f) Construction factors.

The comprehensive ~~((ten-year))~~ sixteen-year investment program for preservation must identify projects for two years and an investment plan for the remaining eight years.

(2) The improvement program consists of investments needed to address identified deficiencies on the state highway system to increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ~~((ten-year))~~ sixteen-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ~~((ten-year))~~ sixteen-year period giving consideration to relative benefits and life-cycle costing. The ~~((transportation commission))~~ program shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate.

The ~~((transportation commission))~~ department shall ~~((approve and present))~~ submit the comprehensive ~~((ten-year))~~ sixteen-year investment program to the governor and the legislature as directed by the office of financial management.

Sec. 12. RCW 47.05.035 and 2005 c 319 s 10 are each amended to read as follows:

(1) The department shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

(3) In developing program objectives and performance measures, the department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

(4) The department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

- (a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;
- (b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;
- (c) The continuity of future transportation development with those improvements previously programmed; and
- (d) The availability of dedicated funds for a specific type of work.

(5) The ~~((commission))~~ office of financial management shall review the results of the department's findings and shall consider those findings in the development of the ~~((ten-year))~~ sixteen-year program.

Sec. 13. RCW 47.05.051 and 2005 c 319 s 11 are each amended to read as follows:

~~((H))~~ The comprehensive ~~((ten-year))~~ sixteen-year investment program shall be based upon the needs identified in the state-owned highway component of the statewide ~~((multimodal))~~ comprehensive transportation plan ~~((as defined in RCW 47.01.071(4)))~~ and priority selection systems that incorporate the following criteria:

~~((A))~~ (1) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

~~((H))~~ (a) Extending the service life of the existing highway system, including using the most cost-effective pavement surfaces, considering:

~~((A))~~ (i) Life-cycle cost analysis;

~~((B))~~ (ii) Traffic volume;

~~((C))~~ (iii) Subgrade soil conditions;

~~((D))~~ (iv) Environmental and weather conditions;

~~((E))~~ (v) Materials available; and

~~((F))~~ (vi) Construction factors;

~~((H))~~ (b) Ensuring the structural ability to carry loads imposed upon highways and bridges; and

~~((iii))~~ (c) Minimizing life-cycle costs. ~~((The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the ten-year program.~~

~~((b))~~ (2) Priority programming for the improvement program must be based primarily upon the following, not necessarily in order of importance:

~~((H))~~ (a) Traffic congestion, delay, and accidents;

~~((H))~~ (b) Location within a heavily traveled transportation corridor;

~~((iii))~~ (c) Except for projects in cities having a population of less than five thousand persons, synchronization with other potential transportation projects, including transit and multimodal projects, within the heavily traveled corridor; and

~~((iv))~~ (d) Use of benefit/cost analysis wherever feasible to determine the value of the proposed project.

~~((E))~~ (3) Priority programming for the improvement program may also take into account:

~~((H))~~ (a) Support for the state's economy, including job creation and job preservation;

~~((H))~~ (b) The cost-effective movement of people and goods;

~~((iii))~~ (c) Accident and accident risk reduction;

~~((iv))~~ (d) Protection of the state's natural environment;

~~((v))~~ (e) Continuity and systematic development of the highway transportation network;

~~((vi))~~ (f) Consistency with local comprehensive plans developed under chapter 36.70A RCW including the following if they have been included in the comprehensive plan:

~~((A))~~ (i) Support for development in and revitalization of existing downtowns;

~~((B))~~ (ii) Extent that development implements local comprehensive plans for rural and urban residential and nonresidential densities;

~~((C))~~ (iii) Extent of compact, transit-oriented development for rural and urban residential and nonresidential densities;

~~((D))~~ (iv) Opportunities for multimodal transportation; and

~~((E))~~ (v) Extent to which the project accommodates planned growth and economic development;

~~((vi))~~ (g) Consistency with regional transportation plans developed under chapter 47.80 RCW;

~~((vii))~~ (h) Public views concerning proposed improvements;

~~((ix))~~ (i) The conservation of energy resources;

~~((x))~~ (j) Feasibility of financing the full proposed improvement;

~~((xi))~~ (k) Commitments established in previous legislative sessions;

~~((xii))~~ (l) Relative costs and benefits of candidate programs.

~~((d))~~ Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

~~((c))~~ Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.

~~((2))~~ The commission may depart from the priority programming established under subsection (1) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state

and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority.

—(3) The commission shall identify those projects that yield freight mobility benefits or that alleviate the impacts of freight mobility upon affected communities:))

Sec. 14. RCW 36.57A.191 and 2003 c 363 s 304 are each amended to read as follows:

As a condition of receiving state funding, a public transportation benefit area authority shall submit a maintenance and preservation management plan for certification by the ~~((transportation commission or its successor entity))~~ department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the authority, and provide a preservation plan based on lowest life-cycle cost methodologies.

Sec. 15. RCW 36.78.121 and 2003 c 363 s 307 are each amended to read as follows:

The county road administration board, or its successor entity, shall establish a standard of good practice for maintenance of transportation system assets. This standard must be implemented by all counties no later than December 31, 2007. The board shall develop a model maintenance management system for use by counties. The board shall develop rules to assist the counties in the implementation of this system. Counties shall annually submit their maintenance plans to the board. The board shall compile the county data regarding maintenance management and annually submit it to the ~~((transportation commission or its successor entity))~~ department of transportation's office of transit mobility.

Sec. 16. RCW 36.79.120 and 1988 c 26 s 6 are each amended to read as follows:

Counties receiving funds from the rural arterial trust account for construction of arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas shall ~~provide such matching funds as established by rules recommended by the board, subject to review, revision, and final approval by the ((state) department of transportation ((commission)).~~ Matching requirements shall be established after appropriate studies by the board, taking into account financial resources available to counties to meet arterial needs.

Sec. 17. RCW 36.79.130 and 1983 1st ex.s. c 49 s 13 are each amended to read as follows:

Not later than November 1st of each even-numbered year the board shall prepare and present to the ~~((state)) department of transportation ((commission))~~ a recommended budget for expenditures from the rural arterial trust account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the rural arterial trust account.

The ~~((state transportation commission))~~ department shall review the budget as recommended, revise the budget as it deems proper, and include the budget as revised as a separate section of the transportation budget which it shall submit to the governor pursuant to chapter 43.88 RCW.

Sec. 18. RCW 36.120.020 and 2002 c 56 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) "Board" means the governing body of a regional transportation investment district.
- (2) "Department" means the Washington state department of transportation.
- (3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, ~~((its successor entity))~~ the department, or the legislature.
- (4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.
- (5) "Regional transportation investment district" or "district" means a municipal corporation whose boundaries are coextensive with two or more contiguous counties and that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.
- (6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.
- (7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.
- (8) "Transportation project" means:
 - (a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:
 - (i) Adds a lane or new lanes to an existing state or federal highway; or
 - (ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.
 - (b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:
 - (i) Approaches to highways of statewide significance;
 - (ii) High-occupancy vehicle lanes;
 - (iii) Flyover ramps;
 - (iv) Park and ride lots;

- (v) Bus pullouts;
- (vi) Vans for vanpools;
- (vii) Buses; and
- (viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to one-third of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) Operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

Sec. 19. RCW 36.120.060 and 2002 c 56 s 106 are each amended to read as follows:

(1) The planning committee shall consider the following criteria for selecting transportation projects to improve corridor performance:

- (a) Reduced level of congestion and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period person and vehicle trip capacity;
- (e) Reductions in person and vehicle delay;
- (f) Improved freight mobility; and
- (g) Cost-effectiveness of the investment.

(2) These criteria represent only minimum standards that must be considered in selecting transportation improvement projects. The board shall also consider rules and standards for benchmarks adopted by the ~~((transportation commission or its successor))~~ department as approved by the office of financial management.

Sec. 20. RCW 43.10.101 and 2005 c 319 s 104 are each amended to read as follows:

The attorney general shall prepare annually a report to the transportation committees of the legislature, ~~((the transportation commission))~~ the governor, the office of financial management, and ((the transportation performance audit board)) the Washington state department of transportation comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

Sec. 21. RCW 46.44.042 and 1996 c 116 s 1 are each amended to read as follows:

Subject to the maximum gross weights specified in RCW 46.44.041, it is unlawful to operate any vehicle upon the public highways with a gross weight, including load, upon any tire concentrated upon the surface of the highway in excess of six hundred pounds per inch width of such tire. An axle manufactured after July 31, 1993, carrying more than ten thousand pounds gross weight must be equipped with four or more tires. ~~((Effective January 1, 1997:))~~ An axle carrying more than ten thousand pounds gross weight must have four or more tires, regardless of date of manufacture. Instead of the four or more tires per axle requirements of this section, an axle may be equipped with two tires limited to five hundred pounds per inch width of tire. This section does not apply to vehicles operating under oversize or overweight permits, or both, issued under RCW 46.44.090, while carrying a nonreducible load.

The following equipment may operate at six hundred pounds per inch width of tire: (1) A nonliftable steering axle or axles on the power unit; (2) a tiller axle on fire fighting apparatus; (3) a rear booster trailing axle equipped with two tires on a ready-mix concrete transit truck; and (4) a straddle trailer manufactured before January 1, 1996, equipped with single-tire axles or a single axle using a walking beam supported

by two in-line single tires and used exclusively for the transport of fruit bins between field, storage, and processing. A straddle trailer manufactured after January 1, 1996, meeting this use criteria may carry five hundred fifteen pounds per inch width of tire on sixteen and one-half inch wide tires.

For the purpose of this section, the width of tire in case of solid rubber or hollow center cushion tires, so long as the use thereof may be permitted by the law, shall be measured between the flanges of the rim. For the purpose of this section, the width of tires in case of pneumatic tires shall be the maximum overall normal inflated width as stipulated by the manufacturer when inflated to the pressure specified and without load thereon.

The department of transportation, (~~under rules adopted by the transportation commission~~) by rule with respect to state highways, and a local authority, with respect to a public highway under its jurisdiction, may extend the weight table in RCW 46.44.041 to one hundred fifteen thousand pounds. However, the extension must be in compliance with federal law, and vehicles operating under the extension must be in full compliance with the 1997 axle and tire requirements under this section.

Sec. 22. RCW 46.44.080 and 1977 ex.s. c 151 s 29 are each amended to read as follows:

Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated (~~by the transportation commission as forming~~) a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage.

Sec. 23. RCW 46.44.090 and 2001 c 262 s 1 are each amended to read as follows:

The department of transportation, pursuant to its rules (~~adopted by the transportation commission~~) with respect to state highways, and local authorities, with respect to public highways under their jurisdiction, may, upon application in writing and good cause being shown therefor, issue a special permit in writing, or electronically, authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum set forth in RCW 46.44.010, 46.44.020, 46.44.030, 46.44.034, and 46.44.041 upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible.

Sec. 24. RCW 46.44.092 and 1989 c 398 s 2 are each amended to read as follows:

Special permits may not be issued for movements on any state highway outside the limits of any city or town in excess of the following widths:

On two-lane highways, fourteen feet;

On multiple-lane highways where a physical barrier serving as a median divider separates opposing traffic lanes, twenty feet;

On multiple-lane highways without a physical barrier serving as a median divider, thirty-two feet.

These limits apply except under the following conditions:

(1) In the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) the maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: PROVIDED, That when the department of transportation (~~pursuant to general rules adopted by the transportation commission~~) determines a hardship would result, this limitation may be exceeded upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made;

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) Permits may be issued for vehicles with a total outside width, including the load, of nine feet or less when the vehicle is equipped with a mechanism designed to cover the load pursuant to RCW 46.61.655;

(4) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(5) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed eighty thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

Sec. 25. RCW 46.44.096 and 1996 c 92 s 1 are each amended to read as follows:

In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, temporary additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

The department may select a third party contractor, by means of competitive bid, to perform the department's permit issuance function, as provided under RCW 46.44.090. Factors the department shall consider, but is not limited to, in the selection of a third party contractor are economic benefit to both the department and the motor carrier industry, and enhancement of the overall level of permit service. For purposes of this section, "third party contractor" means a business entity that is authorized by the department to issue special permits. The department of transportation (~~commission~~) may adopt rules specifying the criteria that a business entity must meet in order to qualify as a third party contractor under this section.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the (~~state~~) department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing that the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible.

Sec. 26. RCW 46.61.450 and 1977 ex.s. c 151 s 39 are each amended to read as follows:

It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: PROVIDED, That in the event that any such bridge, elevated structure, tunnel, or underpass is upon a city street designated by the department of transportation (~~commission~~) as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass.

Sec. 27. RCW 46.68.113 and 2003 c 363 s 305 are each amended to read as follows:

During the 2003-2005 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation (~~commission or its successor entity~~). Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

Sec. 28. RCW 47.68.410 and 2005 c 316 s 3 are each amended to read as follows:

(1) Upon completion of both the statewide assessment and analysis required under RCW 47.68.390 and 47.68.400, and to the extent funds are appropriated to the department for this purpose, the governor shall appoint an aviation planning council to consist of the following members: (a) The director of the aviation division of the department of transportation, or a designee; (b) the director of the department of community, trade, and economic development, or a designee; (c) ~~((a member of the transportation commission,))~~ an at large who shall be the chair of the council; (d) two members of the general public familiar with airport issues, including the impacts of airports on communities, one of whom must be from western Washington and one of whom must be from eastern Washington; (e) a technical expert familiar with federal aviation administration airspace and control issues; (f) a commercial airport operator; (g) a member of a growth management hearings board; (h) a representative of the Washington airport management association; and (i) an airline representative. The chair of the council may designate another councilmember to serve as the acting chair in the absence of the chair. The department of transportation shall provide all administrative and staff support for the council.

(2) The purpose of the council is to make recommendations, based on the findings of the assessment and analysis completed under RCW 47.68.390 and 47.68.400, regarding how best to meet the statewide commercial and general aviation capacity needs, as determined by the council. The council shall determine which regions of the state are in need of improvement regarding the matching of existing, or projected, airport facilities, and the long-range capacity needs at airports within the region expected to reach capacity before the year 2030. After determining these areas, the council shall make recommendations regarding the placement of future commercial and general aviation airport facilities designed to meet the need for improved aviation planning in the region. The council shall include public input in making final recommendations.

(3) The council shall submit its recommendations to the appropriate standing committees of the legislature, the governor, ~~((the transportation commission,))~~ and applicable regional transportation planning organizations.

(4) This section expires July 1, 2009.

Sec. 29. RCW 47.28.010 and 1977 ex.s. c 151 s 59 are each amended to read as follows:

Whenever the general route of any state highway shall be designated and laid out as running to or by way of certain designated points, without specifying the particular route to be followed to or by way of such points, the ~~((transportation commission))~~ department shall determine the particular route to be followed by said state highway to or by way of said designated points, and shall be at liberty to select and adopt as a part of such state highway, the whole or any part of any existing public highway previously designated as a county road, primary road, or secondary road or now or hereafter classified as a county road. The ~~((commission))~~ department need not select and adopt the entire routes for such state highways at one time, but may select and adopt parts of such routes from time to time as it deems advisable. Where a state highway is designated as passing by way of a certain point, this shall not require the ~~((commission))~~ department to cause such state highway to pass through or touch such point but such designation is directional only and may be complied with by location in the general vicinity. The department ~~((of transportation))~~ is empowered to construct as a part of any state highway as designated and in addition to any portion meeting the limits of any incorporated city or town a bypass section either through or around any such incorporated city or town.

Sec. 30. RCW 47.28.170 and 1990 c 265 s 1 are each amended to read as follows:

(1) Whenever the department finds that as a consequence of accident, natural disaster, or other emergency, an existing state highway is in jeopardy or is rendered impassible in one or both directions and the department further finds that prompt reconstruction, repair, or other work is needed to preserve or restore the highway for public travel, the department may obtain at least three written bids for the work without publishing a call for bids, and the secretary of transportation may award a contract forthwith to the lowest responsible bidder.

The department shall notify any association or organization of contractors filing a request to regularly receive notification. Notification to an association or organization of contractors shall include: (a) The location of the work to be done; (b) the general anticipated nature of the work to be done; and (c) the date determined by the department as reasonable in view of the nature of the work and emergent nature of the problem after which the department will not receive bids.

(2) Whenever the department finds it necessary to protect a highway facility from imminent damage or to perform emergency work to reopen a highway facility, the department may contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed thirty working days.

(3) The secretary shall review any contract exceeding ~~((two))~~ seven hundred thousand dollars awarded under subsection (1) or (2) of this section with the ~~((transportation commission at its next regularly scheduled meeting))~~ office of financial management within thirty days of the contract award.

(4) Any person, firm, or corporation awarded a contract for work must be prequalified pursuant to RCW 47.28.070 and may be required to furnish a bid deposit or performance bond.

Sec. 31. RCW 47.38.060 and 1996 c 172 s 1 are each amended to read as follows:

The ~~((transportation commission))~~ department may designate interstate safety rest areas, as appropriate, as locations for memorial signs to prisoners of war and those missing in action. The ~~((commission))~~ department shall adopt policies for the placement of memorial signs on

interstate safety rest areas and may disapprove any memorial sign that it determines to be inappropriate or inconsistent with the policies. The policies shall include, but are not limited to, guidelines for the size and location of and inscriptions on memorial signs. The secretary shall adopt rules for administering this program. Nonprofit associations may have their name identified on a memorial sign if the association bears the cost of supplying and maintaining the memorial sign.

Sec. 32. RCW 47.52.133 and 1987 c 200 s 2 are each amended to read as follows:

Except as provided in RCW 47.52.134, the ~~((transportation commission))~~ department and the highway authorities of the counties and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established to determine the desirability of the plan proposed by such authority. Notice of such hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

Sec. 33. RCW 47.52.145 and 1981 c 95 s 2 are each amended to read as follows:

~~((Whenever))~~ After ((the)) final adoption of a ~~((plan for a))~~ limited access highway by the ~~((transportation commission))~~ department, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the ~~((commission))~~ department may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

- (1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and
- (2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review.

Sec. 34. RCW 47.52.210 and 1981 c 95 s 3 are each amended to read as follows:

(1) Whenever the ~~((transportation commission))~~ department adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town, and the provisions of RCW 47.24.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the secretary of transportation that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the department of transportation may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the secretary of transportation and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the state and the continued operation of such property as a functional part of the limited access highway.

Sec. 35. RCW 47.60.330 and 2003 c 374 s 5 are each amended to read as follows:

(1) Before a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges, the department ~~((of transportation))~~ shall consult with affected ferry users. The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c). Promotional, discount, and special event fares that are not part of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission and the office of financial management each fiscal year.

(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.

(3) Before increasing ferry tolls the department of transportation shall consider ~~((all possible))~~ cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. ~~((Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450.))~~ Before including any toll increase in a budget proposal ~~((by the commission))~~, the department ~~((of transportation))~~ shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1)(a) or (c) of this section.

Sec. 36. RCW 47.68.390 and 2005 c 316 s 1 are each amended to read as follows:

(1) The aviation division of the department of transportation shall conduct a statewide airport capacity and facilities assessment. The assessment must include a statewide analysis of existing airport facilities, and passenger and air cargo transportation capacity, regarding both commercial aviation and general aviation; however, the primary focus of the assessment must be on commercial aviation. The assessment must at a minimum address the following issues:

- (a) Existing airport facilities, both commercial and general aviation, including air side, land side, and airport service facilities;
- (b) Existing air and airport capacity, including the number of annual passengers and air cargo operations;
- (c) Existing airport services, including fixed based operator services, fuel services, and ground services; and
- (d) Existing airspace capacity.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the assessment.

(3) The department shall submit the assessment to the appropriate standing committees of the legislature, the governor, (~~the transportation commission~~) and regional transportation planning organizations by July 1, 2006.

Sec. 37. RCW 47.68.400 and 2005 c 316 s 2 are each amended to read as follows:

(1) After submitting the assessment under RCW 47.68.390, the aviation division of the department of transportation shall conduct a statewide airport capacity and facilities market analysis. The analysis must include a statewide needs analysis of airport facilities, passenger and air cargo transportation capacity, and demand and forecast market needs over the next twenty-five years with a more detailed analysis of the Puget Sound, southwest Washington, Spokane, and Tri-Cities regions. The analysis must address the forecasted needs of both commercial aviation and general aviation; however, the primary focus of the analysis must be on commercial aviation. The analysis must at a minimum address the following issues:

- (a) A forecast of future airport facility needs based on passenger and air cargo operations and demand, airline planning, and a determination of aviation trends, demographic, geographic, and market factors that may affect future air travel demand;
- (b) A determination of when the state's existing commercial service airports will reach their capacity;
- (c) The factors that may affect future air travel and when capacity may be reached and in which location;
- (d) The role of the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, and airport sponsors in addressing statewide airport facilities and capacity needs; and
- (e) Whether the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, or airport sponsors have identified options for addressing long-range capacity needs at airports, or in regions, that will reach capacity before the year 2030.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the analysis.

(3) The department shall submit the analysis to the appropriate standing committees of the legislature, the governor, (~~the transportation commission~~) and regional transportation planning organizations by July 1, 2007.

Sec. 38. RCW 81.112.086 and 2003 c 363 s 306 are each amended to read as follows:

As a condition of receiving state funding, a regional transit authority shall submit a maintenance and preservation management plan for certification by the (~~transportation commission or its successor entity~~) department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the transit authority, and provide a plan for preservation of assets based on lowest life-cycle cost methodologies.

Sec. 39. RCW 35.58.2795 and 1994 c 158 s 6 are each amended to read as follows:

By April 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, and each regional transit authority shall prepare a six-year transit development plan for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. The six-year plan for each municipality and regional transit authority shall specifically set forth those projects of regional significance for inclusion in the transportation improvement program within that region. Each municipality and regional transit authority shall file the six-year program with the state department of transportation's office of transit mobility, the state auditor, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality and the regional transit authority shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan (~~approved by the state transportation commission~~) and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

Sec. 40. RCW 36.56.121 and 2003 c 363 s 303 are each amended to read as follows:

As a condition of receiving state funding, a county that has assumed the transportation functions of a metropolitan municipal corporation shall submit a maintenance and preservation management plan for certification by the (~~transportation commission or its successor entity~~) department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the county, and provide a preservation plan based on lowest life-cycle cost methodologies.

Sec. 41. RCW 36.57A.070 and 1985 c 6 s 5 are each amended to read as follows:

The comprehensive transit plan adopted by the authority shall be reviewed by the state (~~(transportation commission to)~~ department of transportation's office of transit mobility and the state auditor. Upon reviewing the plan, the office of transit mobility shall determine:

- (1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;
- (2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;
- (3) Whether such plan coordinates that area's system and service with nearby public transportation systems;
- (4) Whether such plan is eligible for matching state or federal funds(;

~~After reviewing the comprehensive transit plan, the state transportation commission shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval).~~

Sec. 42. RCW 47.29.010 and 2005 c 317 s 1 are each amended to read as follows:

(1) The legislature finds that the public-private (~~(transportation))~~ transportation initiatives act created under chapter 47.46 RCW has not met the needs and expectations of the public or private sectors for the development of transportation projects. The legislature intends to phase out chapter 47.46 RCW coincident with the completion of the Tacoma Narrows Bridge - SR 16 public-private partnership. From July 24, 2005, this chapter will provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW.

(2) It is the legislature's intent to achieve the following goals through the creation of this new approach to public-private partnerships:

- (a) To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation;
- (b) To bring innovative thinking from the private sector and other states to bear on public projects within the state;
- (c) To provide greater flexibility in achieving the transportation projects; and
- (d) To allow for creative cost and risk sharing between the public and private partners.

(3) The legislature intends that the powers granted in this chapter to the commission or department are in addition to any powers granted under chapter 47.56 RCW.

(4) It is further the intent of the legislature that (~~the commission shall be responsible for receiving, reviewing, and approving proposals with technical support of the department, rule making, and for oversight of contract execution. The department shall be responsible for evaluating proposals and negotiating contracts~~) an expert review panel be established for each project developed under this act. Expert review panels shall be responsible for reviewing selected proposals, analyzing and reviewing tentative agreements, and making recommendations to the governor on the advisability of executing agreements under this act.

Sec. 43. RCW 47.29.020 and 2005 c 317 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

- (1) (~~"Authority" means the transportation commission.~~)
- ~~(2) "Commission" means the transportation commission.~~
- ~~(3)) "Department" means the department of transportation.~~
- ~~(4))~~ (2) "Eligible project" means any project eligible for development under RCW 47.29.050.
- ~~(5))~~ (3) "Eligible public works project" means only a project that meets the criteria of either RCW 47.29.060 (3) or (4).
- ~~(6))~~ (4) "Expert review panel" means a panel established by the governor to review tentative agreements and make recommendations to the governor for approval, rejection, or continued negotiations on a proposed project agreement.
- (5) "Private sector partner" and "private partner" (~~(means))~~ mean a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.
- ~~(7))~~ (6) "Public funds" means all moneys derived from taxes, fees, charges, tolls, etc.
- ~~(8))~~ (7) "Public sector partner" and "public partner" (~~(means))~~ mean any federal or state unit of government, bistate transportation organization, or any other political subdivision of any state.
- ~~(9))~~ (8) "Transportation innovative partnership program" or "program" means the program as outlined in RCW 47.29.040.
- ~~(10))~~ (9) "Transportation project" means a project, whether capital or operating, where the state's primary purpose for the project is to preserve or facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.
- ~~(11))~~ (10) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

Sec. 44. RCW 47.29.030 and 2005 c 317 s 3 are each amended to read as follows:

In addition to the powers it now possesses, the (~~(commission))~~ department shall:

- (1) ~~((Approve or review contracts or agreements authorized in this chapter;~~
~~(2)))~~ Adopt rules to carry out this chapter and govern the program, which at a minimum must address the following issues:
- (a) The types of projects allowed; however, all allowed projects must be included in the Washington transportation plan or identified by the authority as being a priority need for the state;
 - (b) The types of contracts allowed, with consideration given to the best practices available;
 - (c) The composition of the team responsible for the evaluation of proposals to include:
 - (i) ~~((Washington state))~~ Department ~~((of transportation))~~ staff;
 - (ii) An independent representative of a consulting or contracting field with no interests in the project that is prohibited from becoming a project manager for the project and bidding on any part of the project;
 - (iii) An observer from the state auditor's office or the joint legislative audit and review committee;
 - (iv) A person ~~((appointed by the commission, if the secretary of transportation is a cabinet member, or))~~ appointed by the governor ~~((if the secretary of transportation is not a cabinet member))~~; and
 - (v) A financial expert;
 - (d) Minimum standards and criteria required of all proposals;
 - (e) Procedures for the proper solicitation, acceptance, review, and evaluation of projects;
 - (f) Criteria to be considered in the evaluation and selection of proposals that includes:
 - (i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and
 - (ii) Factors such as, but not limited to: Priority, cost, risk sharing, scheduling, and management conditions;
 - (g) The protection of confidential proprietary information while still meeting the need for public disclosure that is consistent with RCW 47.29.190;
 - (h) Protection for local contractors to participate in subcontracting opportunities;
 - (i) Specifying that maintenance issues must be resolved in a manner consistent with the personnel system reform act, chapter 41.80 RCW;
 - (j) Specifying that provisions regarding patrolling and law enforcement on a public facility are subject to approval by the Washington state patrol;
- ~~((3)))~~ (2) Adopt guidelines to address security and performance issues.

Preliminary rules and guidelines developed under this section must be submitted to the chairs and ranking members of both transportation committees by November 30, 2005, for review and comment. All final rules and guidelines must be submitted to the full legislature during the 2006 session for review.

Sec. 45. RCW 47.29.090 and 2005 c 317 s 9 are each amended to read as follows:

- (1) Subject to subsection (2) of this section, the ~~((commission))~~ department may:
 - (a) Solicit concepts or proposals for eligible projects from private entities and units of government;
 - (b) On or after January 1, 2007, accept unsolicited concepts or proposals for eligible projects from private entities and units of government, subject to RCW 47.29.170;
 - (c) ~~((Direct the department to))~~ Evaluate projects for inclusion in the transportation innovative partnerships program that are already programmed or identified for traditional development by the state;
 - (d) ~~((Direct the department to))~~ Evaluate the concepts or proposals received under this section; and
 - (e) Select potential projects based on the concepts or proposals. The evaluation under this subsection must include consultation with any appropriate unit of government.
- (2) Before undertaking any of the activities contained in subsection (1) of this section, the ~~((commission))~~ department must ~~((have))~~:
 - (a) ~~((Completed))~~ Wait for completion of the tolling feasibility study before proceeding with any projects that might utilize tolls; and
 - (b) ~~((Adopted))~~ Adopt rules specifying procedures for the proper solicitation, acceptance, review, and evaluation of projects, which procedures must include:
 - (i) A comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and
 - (ii) Factors such as priority, cost, risk sharing, scheduling, and management conditions.

Sec. 46. RCW 47.29.100 and 2005 c 317 s 10 are each amended to read as follows:

The department may charge a reasonable administrative fee for the evaluation of an unsolicited project proposal. The amount of the fee will be established in rules ~~((of the commission))~~.

Sec. 47. RCW 47.29.120 and 2005 c 317 s 12 are each amended to read as follows:

The ~~((commission and))~~ department may consult with legal, financial, and other experts inside and outside the public sector in the evaluation, negotiation, and development of projects under this chapter, consistent with RCW 43.10.040 where applicable.

Sec. 48. RCW 47.29.160 and 2005 c 317 s 16 are each amended to read as follows:

- (1) Before ~~((approving an))~~ approval of any agreement under subsection (2) of this section, ~~((the commission, with the technical assistance of))~~ the department ~~((s))~~ must:
 - (a) Prepare a financial analysis that fully discloses all project costs, direct and indirect, including costs of any financing;
 - (b) Publish notice and make available the contents of the agreement, with the exception of patent information, at least twenty days before the public hearing required in (c) of this subsection; and

(c) Hold a public hearing on the proposed agreement, with proper notice provided at least twenty days before the hearing. The public hearing must be held within the boundaries of the county seat of the county containing the project.

(2) The ((~~commission~~)) department must allow at least twenty days from the public hearing on the proposed agreement required under subsection (1)(c) of this section before approving and executing any agreements authorized under this chapter.

NEW SECTION. Sec. 49. A new section is added to chapter 47.29 RCW to read as follows:

(1) The department shall establish an expert review panel to review, analyze, and make recommendations to the governor on whether to approve, reject, or continue negotiations on a proposed project agreement. The department shall provide staff to support the expert review panel, if requested by the panel. The expert review panel may utilize any of the consultants under contract for the department, and the expert review panel may contract for consulting expertise in specific areas as it deems necessary to ensure a thorough and critical review of any proposed project agreement.

(2) The governor shall appoint members of an expert review panel that have experience in large capital project delivery, public private partnerships, public financing of infrastructure improvements, or other areas of expertise that will benefit the panel. The panel shall consist of no less than three but no more than five members, as determined by the governor.

NEW SECTION. Sec. 50. A new section is added to chapter 47.29 RCW to read as follows:

Upon receiving the recommendations of the expert review panel as provided in section 49 of this act, the governor shall execute the proposed project agreement, reject the proposed agreement, or return the agreement for continued negotiations between the state and a private partner. The execution of any agreement or the rejection of any agreement shall constitute a final action for legal or administrative purposes.

Sec. 51. RCW 47.29.170 and 2005 c 317 s 17 are each amended to read as follows:

Before accepting any unsolicited project proposals, the ((~~commission~~)) department must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the ((~~commission~~)) department so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the ((~~commission~~)) department is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The ((~~commission~~)) department may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The ((~~commission~~)) department may not accept or consider any unsolicited proposals before January 1, 2007.

Sec. 52. RCW 47.29.180 and 2005 c 317 s 18 are each amended to read as follows:

For projects with costs, including financing costs, of three hundred million dollars or greater, advisory committees are required.

(1) The ((~~commission~~)) department must ((~~establish~~)) support an advisory committee to advise with respect to eligible projects. An advisory committee must consist of not fewer than five and not more than nine members, as determined by the public partners. Members must be appointed by the ((~~commission~~)) governor, or for projects with joint public sector participation, in a manner agreed to by the ((~~commission~~)) governor and any participating unit of government. In making appointments to the committee, the ((~~commission~~)) department shall consider persons or organizations offering a diversity of viewpoints on the project.

(2) An advisory committee shall review concepts or proposals for eligible projects and submit comments to the public sector partners.

(3) An advisory committee shall meet as necessary at times and places fixed by the department, but not less than twice per year. The state shall provide personnel services to assist the advisory committee within the limits of available funds. An advisory committee may adopt rules to govern its proceedings and may select officers.

(4) An advisory committee must be dissolved once the project has been fully constructed and debt issued to pay for the project has been fully retired.

Sec. 53. RCW 47.29.250 and 2005 c 317 s 25 are each amended to read as follows:

(1) In addition to any authority the commission or department has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the issuance and sale of bonds and other similar obligations in a manner consistent with this section. To finance a project in whole or in part, the ((~~commission~~)) secretary of the department of transportation may request that the state treasurer issue revenue bonds on behalf of the public sector partner. The bonds must be secured by a pledge of, and a lien on, and be payable only from moneys in the transportation innovative partnership account established in RCW 47.29.230, and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the public partner creates a lien that is valid and binding from the time the pledge is made. Revenue

bonds issued under this section are not general obligations of the state or local government and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be spent:

- (a) For the purpose of financing the costs of the project for which the bonds are issued;
- (b) To pay the costs and other administrative expenses of the bonds;
- (c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and
- (d) To reimburse the public sector partners for any costs related to carrying out the projects authorized under this chapter.

Sec. 54. RCW 47.10.861 and 2003 c 147 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as transportation 2003 projects or improvements in the omnibus transportation budget, there shall be issued and sold upon the request of the secretary of the department of transportation (~~(commission)~~) a total of two billion six hundred million dollars of general obligation bonds of the state of Washington.

Sec. 55. RCW 47.10.862 and 2003 c 147 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in RCW 47.10.861 through 47.10.866 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.861 through 47.10.866 shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 56. RCW 47.10.843 and 1998 c 321 s 16 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of state and local highway improvements, there shall be issued and sold upon the request of the (~~Washington state~~) secretary of the department of transportation (~~(commission)~~) a maximum of one billion nine hundred million dollars of general obligation bonds of the state of Washington.

Sec. 57. RCW 47.10.844 and 1998 c 321 s 17 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.843 through 47.10.848 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.843 through 47.10.848 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 58. RCW 47.10.834 and 1995 2nd sp.s. c 15 s 2 are each amended to read as follows:

In order to provide funds necessary to implement the public-private transportation initiatives authorized by chapter 47.46 RCW, there shall be issued and sold upon the request of the (~~Washington state~~) secretary of the department of transportation (~~(commission)~~) a total of twenty-five million six hundred twenty-five thousand dollars of general obligation bonds of the state of Washington.

Sec. 59. RCW 47.10.835 and 1994 c 183 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.834 through 47.10.841 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.834 through 47.10.841 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. In making such appropriation of the net proceeds of the sale of the bonds, the legislature shall specify what portion of the appropriation is provided for possible loans and what portion of the appropriation is provided for other forms of cash contributions to projects.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 60. RCW 47.10.819 and 1993 c 432 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other highway improvements, there shall be issued and sold upon the request of the (~~Washington state~~) secretary of the department of transportation

((~~commission~~)) a total of one hundred million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

- (1) Not to exceed twenty-five million dollars to pay the state's and local governments' share of matching funds for the ten demonstration projects identified in the Intermodal Surface Transportation Efficiency Act of 1991.
- (2) Not to exceed fifty million dollars to temporarily pay the regular federal share of construction in advance of federal-aid apportionments as authorized by this section.
- (3) Not to exceed twenty-five million dollars for loans to local governments to provide the required matching funds to take advantage of available federal funds. These loans shall be on such terms and conditions as determined by the ~~((Washington state))~~ secretary of the department of transportation ((~~commission~~)), but in no event may the loans be for a period of more than ten years. The interest rate on the loans authorized under this subsection shall be equal to the interest rate on the bonds sold for such purposes.

Sec. 61. RCW 47.10.820 and 1993 c 432 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.819 through 47.10.824 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.819 through 47.10.824 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 62. RCW 47.02.120 and 1990 c 293 s 1 are each amended to read as follows:

For the purpose of providing funds for the acquisition of headquarters facilities for district 1 of the department of transportation and costs incidental thereto, together with all improvements and equipment required to make the facilities suitable for the department's use, there shall be issued and sold upon the request of the ~~((Washington transportation commission))~~ secretary of the department of transportation a total of fifteen million dollars of general obligation bonds of the state of Washington.

Sec. 63. RCW 47.02.140 and 1990 c 293 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.02.120 through 47.02.190 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.02.120 through 47.02.190 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. Except for the purpose of repaying the loan from the motor vehicle fund, no such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 64. RCW 44.75.030 and 2005 c 319 s 17 are each amended to read as follows:

(1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, three citizen members with transportation-related expertise, two citizen members with performance measurement expertise, ~~((one member of the transportation commission;))~~ the director of financial management or the director's designee, one ex officio nonvoting member, and one at large member. ~~((The legislative auditor is the ex officio nonvoting member.))~~ The majority and minority leaders of the house and senate transportation committees, or their designees, are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms of two years. The citizen members may not be currently, or within one year, employed by the Washington state department of transportation. The governor, when appointing the citizen members with transportation-related expertise, may consult with appropriate professional associations and shall consider the following transportation-related experiences:

- (a) Construction project planning, including permitting and assuring regulatory compliance;
 - (b) Construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;
 - (c) Construction engineering services, including construction management, materials testing, materials documentation, contractor payments, inspection, surveying, and project oversight;
 - (d) Project management, including design estimating, contract packaging, and procurement; and
 - (e) Transportation planning and congestion management.
- (3) The governor may not remove members from the board before the expiration of their terms unless for cause based upon a determination of incapacity, incompetence, neglect of duty, of malfeasance in office by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.
- (4) No member may be appointed for more than three consecutive terms.

Sec. 65. RCW 44.75.040 and 2005 c 319 s 18 are each amended to read as follows:

(1) The board shall meet periodically. It may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members.

(2) Each member of the transportation performance audit board will be compensated ~~((from the general appropriation for the transportation commission in accordance with RCW 43.03.250 and))~~ in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government, and (b) receives any compensation from such government for working that day. A member shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the transportation commission, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. Additionally, the commission shall designate, subject to board approval, a staff person to serve as the board administrator. The board administrator serves as an exempt employee and at the pleasure of the board.

(5) Each member of the transportation performance audit board shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding all performance reviews and performance audits conducted under this chapter.

NEW SECTION. Sec. 66. A new section is added to chapter 44.75 RCW to read as follows:

(1) The office of financial management shall assume all powers and functions of the transportation performance audit board to review the performance and outcome measures of transportation-related agencies under RCW 44.75.050 through 44.75.090. Effective July 1, 2007: (a) Any appropriations made to the transportation performance audit board for carrying out the powers, functions, and duties transferred under this subsection shall be transferred and credited to the office of financial management; (b) all rules and all pending business before the transportation performance audit board pertaining to the powers, functions, and duties transferred under this subsection shall be continued and acted upon by the office of financial management; and (c) all existing contracts and obligations pertaining to the powers, functions, and duties transferred under this subsection shall remain in full force and shall be performed by the office of financial management.

(2) The state auditor shall assume all powers and functions of the transportation performance audit board to conduct performance audits of transportation-related agencies under RCW 44.75.080 through 44.75.800. Effective July 1, 2007: (a) Any appropriations made to the transportation performance audit board for carrying out the powers, functions, and duties transferred under this subsection shall be transferred and credited to the state auditor; (b) all rules and all pending business before the transportation performance audit board pertaining to the powers, functions, and duties transferred under this subsection shall be continued and acted upon by the state auditor; and (c) all existing contracts and obligations pertaining to the powers, functions, and duties transferred under this subsection shall remain in full force and shall be performed by the state auditor.

(3) By June 30, 2007, the transportation performance audit board shall: (a) Assist the office of financial management as needed to transfer all performance measure review functions under RCW 44.75.050 through 44.75.090 to the office of financial management; and (b) assist the state auditor as needed to transfer all performance audit functions under RCW 44.75.080 through 44.75.800 to the state auditor.

NEW SECTION. Sec. 67. A new section is added to chapter 43.88 RCW to read as follows:

The office of financial management shall, after reviewing the performance or outcome measures and benchmarks of a transportation agency or department under chapter 44.75 RCW, create a report on the results of such review, including a recommendation of whether a full performance or functional audit of the agency or department is warranted, and submit the report annually to the state auditor and to the standing committees on transportation of the house of representatives and senate.

NEW SECTION. Sec. 68. A new section is added to chapter 43.09 RCW to read as follows:

After reviewing the report of the office of financial management on the performance or outcome measures and benchmarks of a transportation-related agency or department, the state auditor may conduct a full performance or functional audit of the agency or department reviewed, or a specific program within the agency or department.

Sec. 69. RCW 47.10.873 and 2005 c 315 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as 2005 transportation partnership projects or improvements in the omnibus transportation budget ~~((2005 c 313))~~ (2005 c 313), there shall be issued and sold upon the request of the secretary of the department of transportation a total of five billion one hundred million dollars of general obligation bonds of the state of Washington.

Sec. 70. RCW 47.10.874 and 2005 c 315 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation, as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in RCW 47.10.873 through 47.10.878 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.873 through 47.10.878 shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

NEW SECTION. Sec. 71. The following acts or parts of acts, as now existing or hereafter amended, are each repealed effective June 30, 2007:

- (1) RCW 44.75.030 (Board created--Membership) and 2006 c ... s 64 (section 64 of this act), 2005 c 319 s 17, & 2003 c 362 s 3; and
- (2) RCW 44.75.040 (Procedures, compensation, support) and 2006 c ... s 65 (section 65 of this act), 2005 c 319 s 18, & 2003 c 362 s 4.

NEW SECTION. Sec. 72. This act takes effect July 1, 2006."

Correct the title.

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Appleton; Clibborn; Dickerson; Flannigan; Hudgins; Kilmer; Lovick; Morris; Sells; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck; Curtis; Ericksen; Hankins; Holmquist; Jarrett; Nixon; Rodne; Schindler and Shabro.

Passed to Committee on Rules for second reading.

February 23, 2006

ESSB 6839 Prime Sponsor, Senate Committee On Transportation: Modifying transportation accounts and revenue distributions.
Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended:

On page 7, line 33, strike "~~((4,000,000))~~ 2,000,000" and insert "4,000,000"

On page 17, after line 11, insert the following:

"NEW SECTION. Sec. 15. Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect March 24, 2006."

Correct the title.

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton; Buck; Clibborn; Curtis; Dickerson; Ericksen; Flannigan; Hankins; Holmquist; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

Passed to Committee on Rules for second reading.

February 23, 2006

SB 6412 Prime Sponsor, Senator Doumit: Increasing the number of superior court judges in Clallam and Cowlitz counties.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Buri; Clements; Cody; Conway; Darneille; Dunshee; Haigh; Hinkle; Hunter; Kagi; Kenney; Kessler; McDermott; McIntire; Miloscia; Pearson; Priest; Schual-Berke; P. Sullivan; Talcott and Walsh.

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

Passed to Committee on Rules for second reading.

There being no objection, the bills, memorial and resolution listed on the day's committee reports sheet under the fifth order of business were referred to the committees so designated.

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

There being no objection, the House adjourned until 9:55 a.m., February 27, 2006, the 50th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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