

FIFTY NINTH LEGISLATURE - REGULAR SESSION

EIGHTY SECOND DAY

House Chamber, Olympia, Friday, April 1, 2005

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

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Ellen Boyer and Kevin Lindahl. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Father Jim Cammack of the Baha'is of Mason County Commission District #1.

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

POINT OF PERSONAL PRIVILEGE

Representative Santos:

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

REPORTS OF STANDING COMMITTEES

March 31, 2005

HB 2292 Prime Sponsor, Representative Lantz: Addressing health care liability reform. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass substitute bill proposed by the Committee on Judiciary. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire and Miloscia.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Bailey; Buri; Clements; Hinkle; McDonald; Pearson; Priest; Schual-Berke; Talcott and Walsh

Passed to Committee on Rules for second reading.

March 28, 2005

HCR 4408 Prime Sponsor, Representative Quall: Creating a joint select committee on secondary education. Reported by Committee on Education

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

MINORITY recommendation: Do not pass. Signed by Representatives Talcott, Ranking Minority Member.

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5034 Prime Sponsor, Senate Committee on Government Operations & Elections: Making restrictions on campaign funding. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"PART I - FINDINGS AND INTENT

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

(1) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

(2) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

(3) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: (a) Source of support or opposition to those candidates; and (b) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(4) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(5) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy

is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(6) The state also has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640. Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

NEW SECTION. Sec. 2. Based upon the findings in section 1 of this act, this act is narrowly tailored to accomplish the following and is intended to:

(1) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(2) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(3) Reenact and amend the contribution limits in RCW 42.17.640 (6) and (14) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (6) and (14) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy;

(4) Authorize the commission to adopt rules to implement this act.

PART II - ELECTIONEERING COMMUNICATIONS

NEW SECTION. Sec. 3. (1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two

hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103.

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 4. (1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under section 3 of this act.

NEW SECTION. Sec. 5. (1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under section 3 of this act shall be certified as correct by the sponsor. If the sponsor is an individual using his or

her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

PART III - AMENDMENTS TO AND REENACTMENT OF CURRENT LAWS

Sec. 6. RCW 42.17.020 and 2002 c 75 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))~~ (1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

~~((2))~~ (2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

~~((3))~~ (3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

~~((4))~~ (4) "Ballot proposition" means any "measure" as defined by RCW ~~((29-01-110))~~ 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

~~((5))~~ (5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

~~((6))~~ (6) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter ~~((29-24))~~ 29A.20 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW ~~((29-01-090))~~ 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

~~((7))~~ (7) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

~~((8))~~ (8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

~~((9))~~ (9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

~~((10))~~ (10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

~~((11))~~ (11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

~~((12))~~ (12) "Commission" means the agency established under RCW 42.17.350.

~~((13))~~ (13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

~~((14))~~ (14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

~~((15))~~ (15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

~~((+5))~~ (16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

~~((+6))~~ (17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

~~((+7))~~ (18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

~~((+8))~~ (19) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

~~((+9))~~ (20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

~~((20))~~ (23) "Final report" means the report described as a final report in RCW 42.17.080(2).

~~((21))~~ (24) "General election" for the purposes of RCW 42.17.640 means the election that results in the election of a person to a state office. It does not include a primary.

~~((22))~~ (25) "Gift," is as defined in RCW 42.52.010.

~~((23))~~ (26) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

~~((24))~~ (27) "Incumbent" means a person who is in present possession of an elected office.

~~(28)~~ "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

~~((25))~~ (29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

~~((26))~~ (30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

~~((27))~~ (31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

~~((28))~~ (32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

~~((29))~~ (33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

~~((30))~~ (34) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate prior to contributions being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(35) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~((31))~~ (36) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

~~((32))~~ (37) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((33))~~ (38) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((34))~~ (39) "Primary" for the purposes of RCW 42.17.640 means the procedure for nominating a candidate to state office under chapter ~~((29.18 or 29.21))~~ 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter ~~((29.18 or 29.21))~~ 29A.52 RCW.

~~((35))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((36))~~ (41) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

~~((37))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW ~~((29.82-015))~~ 29A.56.120 and ending thirty days after the recall election.

~~((38))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person

paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

~~((43))~~ (44) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((39))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((40))~~ (46) "State official" means a person who holds a state office.

~~((41))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

~~((42))~~ (48) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

Sec. 7. RCW 42.17.103 and 2001 c 54 s 1 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include at least:

- (a) The name and address of the person making the expenditure;
- (b) The name and address of the person to whom the expenditure was made;
- (c) A detailed description of the expenditure;
- (d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, ~~((and))~~ 42.17.100, and section 3 of this act are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 8. RCW 42.17.110 and 1975-'76 2nd ex.s. c 112 s 5 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

(a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;

(b) The exact nature and extent of the ~~((advertising))~~ services rendered; and

(c) The consideration and the manner of paying that consideration for such services.

(2) Each commercial advertiser which must comply with subsection (1) of this section shall deliver to the commission, upon its request, copies of such information as must be maintained open for public inspection pursuant to subsection (1) of this section.

Sec. 9. RCW 42.17.510 and 1995 c 397 s 19 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. ~~((The party with which a candidate files))~~ For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising ((for partisan office)).

(2) In addition to the materials required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications, must include the following statement ~~((on))~~ as part of the communication "NOTICE TO

VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter(~~and~~

~~—(d) Be clearly spoken on any broadcast advertisement)).~~

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

~~((5))~~ (7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 10. RCW 42.17.530 and 1999 c 304 s 2 are each amended to read as follows:

(1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office. However, this subsection (1)(a) does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself;

(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

Sec. 11. RCW 42.17.640 and 2001 c 208 s 1 are each reenacted and amended to read as follows:

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed ~~((five))~~ seven hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed ~~((five))~~ seven hundred dollars if for a state legislative office or one thousand four hundred dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((fifty))~~ seventy cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((twenty-five))~~ thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((twenty-five))~~ thirty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) ~~((fifty))~~ seventy cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((twenty-five))~~ thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((twenty-five))~~ thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((five))~~ seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((two))~~ three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this

chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

Sec. 12. RCW 42.17.660 and 1993 c 2 s 6 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit ~~((;))~~ or branch ~~((, or affiliate))~~ of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the ~~((same person or entity))~~ trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1).

PART IV - TECHNICAL PROVISIONS

NEW SECTION. **Sec. 13.** RCW 42.17.505 (Definitions) and 1988 c 199 s 1 are each repealed.

NEW SECTION. **Sec. 14.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 15.** (1) Sections 1 through 5 of this act are each added to chapter 42.17 RCW to be codified with the subchapter heading of "Reporting of Electioneering Communications."

(2) The code reviser must change the subchapter heading "Political Advertising" to "Political Advertising and Electioneering Communications" in chapter 42.17 RCW.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 6 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005. The remainder of this act takes effect January 1, 2006."

Correct the title.

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 Appropriations.

March 31, 2005

SSB 5035 Prime Sponsor, Senate Committee on Health & Long-Term Care: Revising the forensic pathology program. 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 Washington state forensic investigations council shall study and make recommendations to the legislature regarding the need for a state forensic pathologist program. The council may include in its recommendations information regarding the state forensic pathologist's annual salary, budget, and duties.

The study and recommendations shall be presented to the legislature by December 1, 2005.

Sec. 2. RCW 43.103.030 and 1999 c 40 s 4 are each amended to read as follows:

There is created the Washington state forensic investigations council. The council shall oversee the bureau of forensic laboratory services and, in consultation with the chief of the Washington state patrol or the chief's designee, control the operation and establish policies of the bureau of forensic laboratory services. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

~~((Further, the council shall, jointly with the chairperson of the pathology department of the University of Washington's School of Medicine, or the chairperson's designee, oversee the state forensic~~

~~pathology fellowship program, determine the budget for the program and set the fellow's annual salary, and take those steps necessary to administer the program.))~~

The forensic investigations council shall be responsible for the oversight of any state forensic pathology program authorized by the legislature.

The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission to the office of financial management pursuant to RCW 43.88.030.

Sec. 3. RCW 43.79.445 and 1997 c 454 s 901 are each amended to read as follows:

There is established an account in the state treasury referred to as the "death investigations account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, ~~((the University of Washington to fund the state forensic pathology fellowship program.))~~ the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council. Funds from the death investigations account may be appropriated during the 1997-99 biennium for the purposes of statewide child mortality reviews administered by the department of health.

~~((The University of Washington and the Washington state forensic investigations council shall jointly determine the yearly amount for the state forensic pathology fellowship program established by RCW 28B.20.426.))~~

NEW SECTION. Sec. 4. RCW 28B.20.426 (Fellowship program in forensic pathology--Funding--Recipient's services to county coroners) and 1991 c 176 s 3 & 1986 c 31 s 1 are each repealed."

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5038 Prime Sponsor, Senate Committee on Judiciary: Increasing penalties for failure to yield to authorized emergency vehicles or police vehicles. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass as amended.

On page 1, line 5, strike all of section 1

Renumber the sections consecutively and correct any internal references accordingly

On page 2, after line 27, delete section 3 in its entirety

On page 2, after line 27, insert

"Sec. 3 RCW 46.63.110 and 2003 c 380 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (4) of this section has been paid.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of

the penalty due under this subsection (8) by participation in the community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060."

Correct the title

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5039 Prime Sponsor, Senator Rasmussen: Regulating the processing of milk and milk products. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended.

On page 3, after line 4, insert the following:

"Sec. 4. RCW 15.36.491 and 1999 c 291 s 23 are each amended to read as follows:

All moneys received for licenses under this chapter shall be deposited in the general fund, except that all moneys received for annual milk processing plant licenses under RCW 15.36.051 shall be deposited in the agricultural local fund established under RCW 43.23.230."

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

On page 3, line 5, after "Sec. 4." strike "Section 1 of this act is" and insert "Sections 1 and 4 of this act are"

On page 3, line 8, strike "takes" and insert "take"

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

Passed to Committee on Rules for second reading.

March 31, 2005

2SSB 5041 Prime Sponsor, Senate Committee on Ways & Means: Revising deadly weapon and firearm

sentence range enhancements. 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; Campbell and Serben

Passed to Committee on Rules for second reading.

March 31, 2005

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 as amended.

On page 1, strike everything after the enacting clause and insert "Sec. 1. RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results;
- (iv) Vehicular homicide;
- (v) Vehicular assault if a death results;
- (vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4))(-);

(vii) Rape in the first and second degree if the victim is under the age of eighteen at the time the crime is committed (RCW 9A.44.040 and 9A.44.050);

(viii) Rape of a child in the first and second degree (RCW 9A.44.073 and 9A.44.076).

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission, and the victim is eighteen years or older on the date the crime is committed; ((except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later.)) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, and the victim is eighteen years or older on the date the crime is committed, the rape may not be prosecuted ((-(A)) more than three years after its commission if the violation was committed against a victim fourteen years of age or older, or (B)

~~more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age)).~~

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW ~~((9A.44.073, 9A.44.076,))~~ 9A.44.083, 9A.44.086, *9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(i) No gross misdemeanor may be prosecuted more than two years after its commission.

(j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside."

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5052 Prime Sponsor, Senate Committee on Judiciary: Creating the uniform estate tax apportionment act. 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. SHORT TITLE. This chapter may be cited as the Washington Uniform Estate Tax Apportionment Act of 2005.

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

(1) "Apportionable estate" means the value of the gross estate as finally determined for purposes of the estate tax to be apportioned reduced by:

(a) Any claim or expense allowable as a deduction for purposes of the tax;

(b) The value of any interest in property that, for purposes of the tax, qualifies for a marital or charitable deduction or otherwise is deductible or is exempt; and

(c) Any amount added to the decedent's gross estate because of a gift tax on transfers made before death.

(2) "Estate tax" means a federal, state, or foreign tax imposed because of the death of an individual and interest and penalties associated with the tax. The term does not include an inheritance tax, income tax, or generation-skipping transfer tax other than a generation-skipping transfer tax incurred on a direct skip taking effect at death.

(3) "Gross estate" means, with respect to an estate tax, all interests in property subject to the tax.

(4) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(5) "Ratable" means apportioned or allocated pro rata according to the relative values of interests to which the term is to be applied. "Ratably" has a corresponding meaning.

(6) "Time-limited interest" means an interest in property which terminates on a lapse of time or on the occurrence or nonoccurrence of an event or which is subject to the exercise of discretion that could transfer a beneficial interest to another person. The term does not include a cotenancy unless the cotenancy itself is a time-limited interest.

(7) "Value" means, with respect to an interest in property, fair market value as finally determined for purposes of the estate tax that is to be apportioned, reduced by any outstanding debt secured by the interest without reduction for taxes paid or required to be paid or for any special valuation adjustment.

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2005.

NEW SECTION. Sec. 3. APPORTIONMENT BY WILL OR OTHER DISPOSITIVE INSTRUMENT. (1) Except as otherwise provided in subsection (3) of this section, the following rules apply:

(a) To the extent that a provision of a decedent's will provides for the apportionment of an estate tax, the tax must be apportioned accordingly.

(b) Any portion of an estate tax not apportioned pursuant to (a) of this subsection must be apportioned in accordance with any provision of a revocable trust of which the decedent was the settlor which provides for the apportionment of an estate tax. If conflicting apportionment provisions appear in two or more revocable trust instruments, the provision in the most recently dated instrument prevails. For purposes of this subsection (1)(b):

(i) A trust is revocable if it was revocable immediately after the trust instrument was executed, even if the trust subsequently becomes irrevocable; and

(ii) The date of an amendment to a revocable trust instrument is the date of the amended instrument only if the amendment contains an apportionment provision.

(c) If any portion of an estate tax is not apportioned pursuant to (a) or (b) of this subsection, and a provision in any other dispositive instrument provides that any interest in the property disposed of by the instrument is or is not to be applied to the payment of the estate tax attributable to the interest disposed of by the instrument, the provision controls the apportionment of the tax to that interest.

(2) Subject to subsection (3) of this section, and unless the decedent provides to the contrary, the following rules apply:

(a) If an apportionment provision provides that a person receiving an interest in property under an instrument is to be exonerated from the responsibility to pay an estate tax that would otherwise be apportioned to the interest:

(i) The tax attributable to the exonerated interest must be apportioned among the other persons receiving interests passing under the instrument; or

(ii) If the values of the other interests are less than the tax attributable to the exonerated interest, the deficiency must be apportioned ratably among the other persons receiving interests in the apportionable estate that are not exonerated from apportionment of the tax.

(b) If an apportionment provision provides that an estate tax is to be apportioned to an interest in property a portion of which qualifies for a marital or charitable deduction, the estate tax must first be apportioned ratably among the holders of the portion that does not qualify for a marital or charitable deduction and then apportioned ratably among the holders of the deductible portion to the extent that the value of the nondeductible portion is insufficient.

(c) Except as otherwise provided in (d) of this subsection, if an apportionment provision provides that an estate tax be apportioned to property in which one or more time-limited interests exist, other than interests in specified property under section 7 of this act, the tax must be apportioned to the principal of that property, regardless of the deductibility of some of the interests in that property.

(d) If an apportionment provision provides that an estate tax is to be apportioned to the holders of interests in property in which one or more time-limited interests exist and a charity has an interest that otherwise qualifies for an estate tax charitable deduction, the tax must first be apportioned, to the extent feasible, to interests in property that have not been distributed to the persons entitled to receive the interests. No tax shall be paid from a charitable remainder annuity trust or a charitable remainder unitrust described in section 664 of the Internal Revenue Code and created during the decedent's life.

(3) A provision that apportions an estate tax is ineffective to the extent that it increases the tax apportioned to a person having an interest in the gross estate over which the decedent had no power to transfer immediately before the decedent executed the instrument in which the apportionment direction was made. For purposes of this section, a testamentary power of appointment is a power to transfer the property that is subject to the power.

NEW SECTION. Sec. 4. STATUTORY APPORTIONMENT OF ESTATE TAXES. To the extent that apportionment of an estate tax is not controlled by an instrument described in section 3 of this act and except as otherwise provided in sections 6 and 7 of this act, the following rules apply:

(1) Subject to subsections (2), (3), and (4) of this section, the estate tax is apportioned ratably to each person that has an interest in the apportionable estate.

(2) A generation-skipping transfer tax incurred on a direct skip taking effect at death is charged to the person to which the interest in property is transferred.

(3) If property is included in the decedent's gross estate because of section 2044 of the Internal Revenue Code or any similar estate tax provision, the difference between the total estate tax for which the decedent's estate is liable and the amount of estate tax for which the decedent's estate would have been liable if the property had not been included in the decedent's gross estate is apportioned ratably among the holders of interests in the property. The balance of the tax, if any, is apportioned ratably to each other person having an interest in the apportionable estate.

(4) Except as otherwise provided in section 3(2)(d) of this act and except as to property to which section 7 of this act applies, an estate tax apportioned to persons holding interests in property subject to a time-limited interest must be apportioned, without further apportionment, to the principal of that property.

(5) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in this chapter because of special circumstances, it may direct apportionment thereon in the manner it finds equitable.

NEW SECTION. Sec. 5. CREDITS AND DEFERRALS.

Except as otherwise provided in sections 6 and 7 of this act, the following rules apply to credits and deferrals of estate taxes:

(1) A credit resulting from the payment of gift taxes or from estate taxes paid on property previously taxed inures ratably to the benefit of all persons to which the estate tax is apportioned.

(2) A credit for state or foreign estate taxes inures ratably to the benefit of all persons to which the estate tax is apportioned, except that the amount of a credit for a state or foreign tax paid by a beneficiary of the property on which the state or foreign tax was imposed, directly or by a charge against the property, inures to the benefit of the beneficiary.

(3) If payment of a portion of an estate tax is deferred because of the inclusion in the gross estate of a particular interest in property, the benefit of the deferral inures ratably to the persons to which the estate tax attributable to the interest is apportioned. The burden of any interest charges incurred on a deferral of taxes and the benefit of any tax deduction associated with the accrual or payment of the interest charge is allocated ratably among the persons receiving an interest in the property.

NEW SECTION. Sec. 6. INSULATED PROPERTY--ADVANCEMENT OF TAX. (1) As used in this section:

(a) "Advanced fraction" means a fraction that has as its numerator the amount of the advanced tax and as its denominator the value of the interests in insulated property to which that tax is attributable.

(b) "Advanced tax" means the aggregate amount of estate tax attributable to interests in insulated property which is required to be advanced by uninsulated holders under subsection (3) of this section.

(c) "Insulated property" means property subject to a time-limited interest which is included in the apportionable estate and is unavailable for payment of an estate tax because of impossibility or impracticability. Insulated property does not include property from which the beneficial holder has the unilateral right to cause distribution to himself or herself.

(d) "Uninsulated holder" means a person who has an interest in uninsulated property.

(e) "Uninsulated property" means property included in the apportionable estate other than insulated property.

(2) If an estate tax is to be advanced pursuant to subsection (3) of this section by persons holding interests in uninsulated property subject to a time-limited interest other than property to which section 7 of this act applies, the tax must be advanced, without further apportionment, from the principal of the uninsulated property.

(3) Subject to section 9 (2) and (4) of this act, an estate tax attributable to interests in insulated property must be advanced ratably by uninsulated holders.

(4) A court having jurisdiction to determine the apportionment of an estate tax may require a beneficiary of an interest in insulated property to pay all or part of the estate tax otherwise apportioned to the interest if the court finds that it would be substantially more equitable for that beneficiary to bear the tax liability personally than for that part of the tax to be advanced by uninsulated holders.

(5) Upon payment by an uninsulated holder of estate tax required to be advanced, a court may require the beneficiary of an interest in insulated property to provide a bond or other security, including a recordable lien on the property of the beneficiary, for repayment of the advanced tax.

(6) When a distribution of insulated property is made, each uninsulated holder may recover from the distributee a ratable portion of the advanced fraction of the property distributed. To the extent that undistributed insulated property ceases to be insulated, each uninsulated holder may recover from the property a ratable portion of the advanced fraction of the total undistributed property.

NEW SECTION. Sec. 7. APPORTIONMENT AND RECAPTURE OF SPECIAL ELECTIVE BENEFITS. (1) As used in this section:

(a) "Special elective benefit" means a reduction in an estate tax obtained by an election for:

(i) A reduced valuation of specified property that is included in the gross estate;

(ii) A deduction from the gross estate, other than a marital or charitable deduction, allowed for specified property; or

(iii) An exclusion from the gross estate of specified property.

(b) "Specified property" means property for which an election has been made for a special elective benefit.

(2) If an election is made for one or more special elective benefits, an initial apportionment of a hypothetical estate tax must be computed as if no election for any of those benefits had been made. The aggregate reduction in estate tax resulting from all elections made must be allocated among holders of interests in the specified property in the proportion that the amount of deduction, reduced valuation, or exclusion attributable to each holder's interest bears to the aggregate amount of deductions, reduced valuations, and exclusions obtained by the decedent's estate from the elections. If the estate tax initially apportioned to the holder of an interest in specified property is reduced to zero, any excess amount of reduction reduces ratably the estate tax apportioned to other persons that receive interests in the apportionable estate.

(3) An additional estate tax imposed to recapture all or part of a special elective benefit must be charged to the persons that are liable for the additional tax under the law providing for the recapture.

NEW SECTION. Sec. 8. SECURING PAYMENT OF ESTATE TAX FROM PROPERTY IN POSSESSION OF FIDUCIARY. (1) A fiduciary may defer a distribution of property

until the fiduciary is satisfied that adequate provision for payment of the estate tax has been made.

(2) A fiduciary may withhold from a distributee the estate tax apportioned to and the estate tax required to be advanced by the distributee.

(3) As a condition to a distribution, a fiduciary may require the distributee to provide a bond or other security for the estate tax apportioned to and the estate tax required to be advanced by the distributee.

NEW SECTION. Sec. 9. COLLECTION OF ESTATE TAX BY FIDUCIARY. (1) A fiduciary responsible for payment of an estate tax may collect from any person the estate tax apportioned to and the estate tax required to be advanced by the person.

(2) Except as otherwise provided in section 6 of this act, any estate tax due from a person that cannot be collected from the person may be collected by the fiduciary from other persons in the following order of priority:

(a) Any person having an interest in the apportionable estate which is not exonerated from the tax;

(b) Any other person having an interest in the apportionable estate;

(c) Any person having an interest in the gross estate.

(3) A domiciliary fiduciary may recover from an ancillary personal representative the estate tax apportioned to the property controlled by the ancillary personal representative.

(4) The total tax collected from a person pursuant to this chapter may not exceed the value of the person's interest.

NEW SECTION. Sec. 10. RIGHT OF REIMBURSEMENT.

(1) A person required under section 9 of this act to pay an estate tax greater than the amount due from the person under section 3 or 4 of this act has a right to reimbursement from another person to the extent that the other person has not paid the tax required by section 3 or 4 of this act and a right to reimbursement ratably from other persons to the extent that each has not contributed a portion of the amount collected under section 9(2) of this act.

(2) A fiduciary may enforce the right of reimbursement under subsection (1) of this section on behalf of the person that is entitled to the reimbursement and shall take reasonable steps to do so if requested by the person.

NEW SECTION. Sec. 11. ACTION TO DETERMINE OR ENFORCE CHAPTER--APPLICATION OF CHAPTER 11.96A RCW. Chapter 11.96A RCW applies to issues, questions, or disputes that arise under or that relate to this chapter. Any and all such issues, questions, or disputes may be resolved judicially or nonjudicially under chapter 11.96A RCW.

NEW SECTION. Sec. 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 13. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. APPLICATION DATE. (1) This act takes effect for estate tax due on account of decedents who die on or after January 1, 2006.

(2) Sections 2 through 7 of this act do not apply to a decedent who dies after December 31, 2005, if the decedent continuously lacked testamentary capacity from January 1, 2006, until the date of death. For such a decedent, estate tax must be apportioned pursuant to the law in effect immediately before the effective date of this act.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) RCW 83.110.010 (Definitions) and 2000 c 129 s 1, 1998 c 292 s 402, 1994 c 221 s 71, 1993 c 73 s 10, 1989 c 40 s 1, & 1986 c 63 s 1;

(2) RCW 83.110.020 (Apportionment of tax) and 2000 c 129 s 2, 1989 c 40 s 2, & 1986 c 63 s 2;

(3) RCW 83.110.030 (Apportionment procedure) and 2000 c 129 s 3, 1990 c 180 s 6, 1989 c 40 s 3, & 1986 c 63 s 3;

(4) RCW 83.110.040 (Collection of tax from persons interested in the estate--Security) and 1986 c 63 s 4;

(5) RCW 83.110.050 (Allowance for exemptions, deductions, and credits) and 2000 c 129 s 4, 1993 c 73 s 11, 1989 c 40 s 4, & 1986 c 63 s 5;

(6) RCW 83.110.060 (Apportionment between temporary and remainder interests) and 2000 c 129 s 5, 1989 c 40 s 5, & 1986 c 63 s 6;

(7) RCW 83.110.070 (Time for recovery of tax from persons interested in the estate--Exoneration of fiduciary--Recovery of uncollectible taxes) and 1986 c 63 s 7;

(8) RCW 83.110.080 (Action by nonresident--Reciprocity) and 1986 c 63 s 8;

(9) RCW 83.110.090 (Coordination with federal law) and 2000 c 129 s 6, 1989 c 40 s 6, & 1986 c 63 s 9;

(10) RCW 83.110.900 (Construction) and 1986 c 63 s 10;

(11) RCW 83.110.901 (Short title) and 1986 c 63 s 11;

(12) RCW 83.110.902 (Captions) and 1986 c 63 s 13;

(13) RCW 83.110.903 (Application) and 1988 c 64 s 26 & 1986 c 63 s 14; and

(14) RCW 83.110.904 (Severability--1986 c 63) and 1986 c 63 s 12.

NEW SECTION. Sec. 16. CAPTIONS NOT LAW. Captions used in this chapter are not part of the law.

NEW SECTION. Sec. 17. This act takes effect January 1, 2006.

NEW SECTION. Sec. 18. The repealed sections of law in section 15 of this act shall not be construed as affecting any existing right, liability, or obligation incurred, under the repealed sections or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

NEW SECTION. Sec. 19. Sections 1 through 14 and 16 of this act constitute a new chapter in Title 83 RCW."

On page 1, line 1 of the title, after "apportionment;" strike the remainder of the title and insert "adding a new chapter to Title 83 RCW; creating a new section; repealing RCW 83.110.010, 83.110.020, 83.110.030, 83.110.040, 83.110.050, 83.110.060, 83.110.070, 83.110.080, 83.110.090, 83.110.900, 83.110.901, 83.110.902, 83.110.903, and 83.110.904; and providing an effective date."

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

Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Nixon; P. Sullivan; Sump; Takko and Wallace.

Passed to Committee on Appropriations.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5058 Prime Sponsor, Senate Committee on Transportation: Modifying fuel tax payment requirements. Reported by Committee on Transportation

SSB 5065 Prime Sponsor, Senate Committee on Health & Long-Term Care: Requiring notice of potential injuries resulting from health care. Reported by Committee on Judiciary

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

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

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5060 Prime Sponsor, Senate Committee on Transportation: Regulating the use of automated traffic safety cameras. Reported by Committee on Transportation

E2SSB 5069 Prime Sponsor, Senate Committee on Ways & Means: Establishing family leave insurance. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Buck; Dickerson; Flannigan; Hankins; Hudgins; Jarrett; Kilmer; Lovick; Nixon; Sells; Shabro; Simpson; B. Sullivan; Takko and Wood.

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

MINORITY recommendation: Do not pass. Signed by Representatives Appleton; Campbell; Curtis; Ericksen; Morris; Rodne; Schindler and Upthegrove

"NEW SECTION. Sec. 1. The legislature finds that, although family leave laws have assisted individuals to balance the demands of the workplace with their family responsibilities, more needs to be done to achieve the goals of family care, work force stability, and economic security. In particular, the legislature finds that many individuals do not have access to family leave laws, and those who do may not be in a financial position to take family leave that is unpaid, and that employer-paid benefits, including family leave and disability benefits, meet only a relatively small part of this need. The legislature declares it to be in the public interest to establish a program that: (1) Allows parents to bond with a newborn or newly placed child, and workers to care for seriously ill family members; (2) is in addition to those programs offered by employers whether voluntary or required by federal or state family leave laws; (3) provides limited income support for a reasonable period while an individual is away from work on family leave; and (4) reduces the impact on state income support programs by increasing an individual's ability to provide care giving services for family members while maintaining an employment relationship.

Passed to Committee on Rules for second reading.

March 29, 2005

SSB 5064 Prime Sponsor, Senate Committee on Health & Long-Term Care: Studying the use of electronic medical records. Reported by Committee on Technology, Energy & Communications

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

MAJORITY recommendation: Do pass as amended.

On page 1, at line 10, after "experts," insert "health plan representatives,"

(1) "Application year" means the twelve-month period beginning on the first day of the calendar week in which an individual files an application for family leave insurance benefits and, thereafter, the twelve-month period beginning with the first day of the calendar week in which the individual next files an application for family leave insurance benefits after the expiration of the individual's last preceding application year.

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member;

(2) "Calendar quarter" has the meaning provided in RCW 50.04.050.

(3) "Child" means a person who is:

(a) A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis; and

(b)(i) Under eighteen years of age; or

(ii) Eighteen years of age or older and incapable of self-care because of a mental or physical disability, whether permanent or temporary.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries.

(6) "Employer" means: (a) An employer as defined in RCW 50.04.080 who employs fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding year; (b) an employer who has elected coverage under this chapter pursuant to section 12 of this act; and (c) the state and its political subdivisions.

(7) "Employment" has the meaning provided in RCW 50.04.100.

(8) "Family leave" means leave from employment with an employer:

(a) To care for a newborn child or adopted or foster child of the individual or the individual's spouse when leave is completed within twelve months after the birth or the placement for adoption or foster care, as applicable; or

(b) To care for the individual's family member who has a serious health condition.

(9) "Family leave insurance benefits" means the benefits payable under sections 6 and 7 of this act.

(10) "Family member" means a child, spouse, or the parent of the individual or individual's spouse.

(11) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW; (b) an osteopathic physician and surgeon under chapter 18.57 RCW; or (c) any other person determined by the director to be capable of providing health care services.

(12) "Parent" means a biological or adoptive parent, a stepparent, or an individual who stood in loco parentis to an individual or an individual's spouse when the individual or individual's spouse was a child.

(13) "Premium" or "premiums" means payments required by this chapter to be made to the department for the family leave insurance account under section 20 of this act.

(14) "Qualifying year" means the first four of the last five completed calendar quarters or the last four completed calendar quarters immediately preceding the first day of the individual's application year.

(15) "Regularly working" means the average number of hours per work week that an individual worked in the two quarters of the individual's qualifying year in which total wages were highest.

(16) "Serious health condition" means:

(a) An illness, injury, impairment, or physical or mental condition that involves:

(i) A period of incapacity or treatment connected with inpatient care, such as an overnight stay, in a hospital, hospice, or residential medical care facility, and a period of incapacity or subsequent treatment or recovery in connection with such inpatient care; or

(ii) Continuing treatment by or under the supervision of a health care provider or a provider of health care services and which includes a period of incapacity, such as an inability to work, attend school, or perform other regular daily activities; and

(b) The period of such incapacity or continuing treatment is expected to exceed the waiting period specified in section 6 of this act over the course of the application year.

NEW SECTION. Sec. 3. (1) The department shall establish and administer a family leave insurance program and pay family leave insurance benefits as specified in this chapter.

(2) The department shall establish procedures and forms for filing claims for benefits under this chapter. The department shall notify the employer within five business days of a claim being filed under section 4 of this act.

(3) The department may require that a claim for benefits under this chapter be supported by a certification issued by the health care provider providing health care to the individual's family member.

(4) The employment security department shall disclose relevant information and records, and the department shall use information sharing and integration technology to facilitate such disclosure, so long as an individual consents to such disclosure as required under section 4(4) of this act.

(5) Information contained in the files and records pertaining to an individual under this chapter are confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, the individual or an authorized representative of an individual may review the records or receive specific information from the records on the presentation of the signed authorization of the individual. An employer or the employer's duly authorized representative may review the records of an individual employed by the employer in connection with a pending claim. At the department's discretion, other persons may review records when such persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter.

(6) The department shall develop and implement an outreach program to ensure that individuals who may be eligible to receive family leave insurance benefits under this chapter are made aware of these benefits. Outreach information shall explain, in an easy to understand format, eligibility requirements, the claims process, weekly benefit amounts, maximum benefits payable, notice and medical certification requirements, reinstatement and nondiscrimination rights, confidentiality, and the relationship between benefits under this chapter and other leave rights and benefits. Outreach information shall be available in English and other primary languages as defined in RCW 74.04.025.

NEW SECTION. Sec. 4. Beginning September 3, 2006, family leave insurance benefits are payable to an individual during a period in which the individual is on family leave if the individual:

(1) Files a claim for benefits in each week in which the individual is on family leave, and as required by rules adopted by the director;

(2) Has been employed in employment for at least six hundred eighty hours and in at least six months during the individual's qualifying year;

(3) Has been employed in employment for at least six calendar workweeks by the employer from whom family leave is to be taken;

(4) Establishes an application year. An application year may not be established if the qualifying year includes hours worked before establishment of a previous application year;

(5) Consents to the disclosure of information or records deemed private and confidential under chapter 50.13 RCW. Initial disclosure of this information and these records by the employment security department to the department is solely for purposes related to the

administration of this chapter. Further disclosure of this information or these records is subject to sections 3(4) and 13(2)(b) of this act;

(6) Discloses whether or not he or she owes child support obligations as defined in RCW 50.40.050;

(7) Documents that he or she has provided the employer from whom family leave is to be taken with written notice of the individual's intention to take family leave as follows:

(a) If the necessity for family leave defined in section 2(8)(a) of this act was foreseeable based on an expected birth or placement, notice was given at least thirty days before the family leave was to begin, stating the anticipated starting date and ending date of the family leave. However, if the date of birth or placement required family leave to begin in less than thirty days or if the date of birth or placement required family leave to be changed or extended, as much notice as practicable was given;

(b) If the necessity for family leave defined in section 2(8)(b) of this act was foreseeable based on planned medical treatment:

(i) Notice was given at least thirty days before the family leave was to begin, stating the anticipated starting date and ending date of the family leave. However, if the date of the treatment required family leave to begin in less than thirty days or if the date of the treatment required family leave to be changed or extended, as much notice as practicable was given; and

(ii) The individual made reasonable efforts to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the family member, as applicable; and

(c) If the necessity for family leave defined in section 2(8) (a) or (b) of this act is not foreseeable, the employee must give notice to the employer of the need for leave as soon as practicable under the facts and circumstances of the case, stating the anticipated starting and ending date of the family leave. It is expected that an employee will give notice to the employer within no more than one or two working days of learning of the need for leave, except in the extraordinary circumstances where such notice is not feasible; and

(8) Is not receiving benefits under the unemployment compensation or crime victims' compensation laws of this state, any other state, or the United States.

NEW SECTION. Sec. 5. An individual is disqualified from family leave insurance benefits beginning with the first day of the calendar week, and continuing for the next fifty-two consecutive weeks, in which the individual willfully made a false statement or misrepresentation regarding a material fact, or willfully failed to report a material fact, to obtain benefits under this chapter.

NEW SECTION. Sec. 6. (1) The maximum number of weeks during which family leave insurance benefits are payable in an application year is five weeks. However, benefits are not payable during a waiting period consisting of the first five work days of family leave taken in an application year with respect to a particular type of family leave, whether the first five work days of family leave are employer paid or unpaid.

(2)(a) The first payment of benefits must be made to an individual within two weeks after the claim is filed or the family leave began, whichever is later, and subsequent payments must be made semimonthly thereafter.

(b) The payment of benefits under this chapter shall not be considered a binding determination of the obligations of the department under this chapter. The acceptance of compensation by the individual shall likewise not be considered a binding determination of his or her rights under this chapter. Whenever any

payment of benefits under this chapter has been made and timely appeal therefrom has been made where the final decision is that the payment was improper, the individual shall repay it and recoupment may be made from any future payment due to the individual on any claim under this chapter. The director may exercise his or her discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(c) If an individual dies before he or she receives a payment of benefits, the payment shall be made to the surviving spouse, or the child or children if there is no surviving spouse. If there is no surviving spouse, and no child or children, the payment shall be made by the department and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(3) Benefits are not payable and waiting period credits are not earned under this chapter for any weeks in which compensation is paid or payable to the individual under Title 50 RCW or similar law of another state or the United States.

NEW SECTION. Sec. 7. The amount of family leave insurance benefits shall be determined as follows:

(1) The weekly benefit shall be two hundred fifty dollars per week for an individual who at the time of beginning family leave was regularly working forty hours or more per week.

(2) If an individual who at the time of beginning family leave was regularly working forty hours or more per week is on family leave for less than forty hours but at least eight hours in a week, the individual's weekly benefit shall be .025 times the maximum weekly benefit times the number of hours of family leave taken in the week. Benefits are not payable for less than eight hours of family leave taken in a week.

(3) For an individual who at the time of beginning family leave was regularly working less than forty hours per week, the department shall calculate a prorated schedule for a weekly benefit amount and a minimum number of hours of family leave that must be taken in a week for benefits to be payable, with the prorated schedule based on the amounts and the calculations specified under subsections (1) and (2) of this section.

(4) If an individual discloses that he or she owes child support obligations under section 4 of this act and the department determines that the individual is eligible for benefits, the department shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050.

(5) If the internal revenue service determines that family leave insurance benefits under this chapter are subject to federal income tax and an individual elects to have federal income tax deducted and withheld from benefits, the department shall deduct and withhold the amount specified in the federal internal revenue code in a manner consistent with section 8 of this act.

NEW SECTION. Sec. 8. (1) If the internal revenue service determines that family leave insurance benefits under this chapter are subject to federal income tax, the department must advise an individual filing a new claim for family leave insurance benefits, at the time of filing such claim, that:

(a) The internal revenue service has determined that benefits are subject to federal income tax;

(b) Requirements exist pertaining to estimated tax payments;

(c) The individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits at the amount specified in the federal internal revenue code; and

(d) The individual is permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from benefits must remain in the family leave insurance account until transferred to the federal taxing authority as a payment of income tax.

(3) The director shall follow all procedures specified by the federal internal revenue service pertaining to the deducting and withholding of income tax.

NEW SECTION. Sec. 9. If family leave insurance benefits are paid erroneously or as a result of willful misrepresentation, or if a claim for family leave benefits is rejected after benefits are paid, RCW 51.32.240 shall apply, except that appeals are governed by section 14 of this act, penalties are paid into the family leave insurance account, and the department shall seek repayment of benefits from the recipient.

NEW SECTION. Sec. 10. During a period in which an individual receives family leave insurance benefits under this chapter, the individual is entitled to family leave and, at the established ending date of leave, to be reinstated in his or her position with the employer from whom leave was taken subject to the following:

(1) An employer may require that family leave for which an individual is receiving or received family leave insurance benefits under this chapter be taken concurrently with leave under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or local law. If an employer requires that family leave for which an individual is receiving or received benefits under this chapter be taken concurrently with leave under the federal family and medical leave act of 1993, chapter 49.78 RCW, or other applicable federal, state, or local law, the employer must give all individuals in his or her employ written notice of the requirement.

(2)(a) If the individual is entitled, on return from family leave under this chapter, to reinstatement under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or local law, other than this chapter, reinstatement is required as provided under the applicable law most favorable to the individual.

(b)(i) If the individual is not entitled to reinstatement on return from family leave under (a) of this subsection, the individual is entitled, upon return from leave under this chapter, to be reinstated:

(A) In the same position held by the individual when the leave commenced;

(B) In a position with equivalent benefits and pay at a workplace within twenty miles of the individual's workplace when leave commenced; or

(C) If the employer's circumstances have so changed that the individual cannot be reinstated in the same position, or a position of equivalent pay and benefits, the individual shall be reinstated in any other position which is vacant and for which the individual is qualified.

(ii) The entitlement under this subsection (2)(b) is subject to bona fide changes in compensation or work duties, and does not apply if:

(A) The individual's position is eliminated by a bona fide restructuring or reduction-in-force;

(B) The individual's workplace is permanently or temporarily shut down for at least thirty days;

(C) The individual's workplace is moved to a location at least sixty miles from the location of the workplace when leave commenced;

(D) The individual on family leave takes another job; or

(E) The individual fails to return on the established ending date of leave.

(3) An individual who has been on family leave while receiving family leave insurance benefits under this chapter shall not lose any employment benefit, including seniority or pension rights, accrued before the date that family leave commenced. However, this chapter does not entitle an individual to accrue employment benefits during a period of family leave, or to a right, benefit, or position of employment other than a right, benefit, or position to which the individual would have been entitled had the individual not taken family leave.

(4) The department shall enforce this section under RCW 49.78.140 through 49.78.190.

NEW SECTION. Sec. 11. (1) This chapter does not limit an individual's right to leave from employment under other laws, collective bargaining agreements, or employer policy, as applicable, except as provided in this chapter.

(2) If an employer provides paid family leave through any means, the individual may elect whether first to use the paid family leave or to receive family leave insurance benefits under this chapter. An individual may not be required to use the individual's paid family leave to which the individual is otherwise entitled before receiving benefits under this chapter.

NEW SECTION. Sec. 12. (1) An employer not covered by this chapter, including an employer as defined in RCW 50.04.080 who employs less than fifty employees for each working day during each of twenty or more calendar workweeks in the current or preceding year, or a self-employed person, may elect coverage under this chapter for all individuals in its employ for an initial period of not less than three years or a subsequent period of not less than one year immediately following another period of coverage. The employer or self-employed person must file a notice of election in writing with the director, as required by the department. The election becomes effective on the date of filing the notice.

(2) An employer or self-employed person who has elected coverage may withdraw from coverage within thirty days after the end of the three-year period of coverage, or at such other times as the director may prescribe by rule, by filing written notice with the director, such withdrawal to take effect not sooner than thirty days after filing the notice. Within five days of filing written notice of the withdrawal with the director, an employer must provide written notice of the withdrawal to all individuals in the employer's employ.

(3) The department may cancel elective coverage if the employer or self-employed person fails to make required payments or reports. The department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation shall be effective no later than thirty days from the date of the written notice advising the employer or self-employed person of the cancellation. Within five days of receiving written notice of the cancellation from the director, an employer must provide written notice of the cancellation to all individuals in the employer's employ.

NEW SECTION. Sec. 13. (1) In the form and at the times specified by the director, an employer shall make reports, furnish information, and remit premiums as required by section 19 of this act

to the department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section. However, if the temporary help company fails to remit the required premiums, the customer to whom the employees were provided is liable for paying the premiums.

(2)(a) An employer must keep at his or her place of business a record of employment from which the information needed by the department for purposes of this chapter may be obtained. This record shall at all times be open to the inspection of the director or department employees designated by the director.

(b) Information obtained from employer records under this chapter is confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, an interested party shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of its records by written consent.

(3) The requirements relating to the assessment and collection of family leave insurance premiums are the same as the requirements relating to the assessment and collection of industrial insurance premiums under Title 51 RCW, including but not limited to penalties, interest, and department lien rights and collection remedies. These requirements apply to:

(a) An employer that fails under this chapter to make the required reports, or fails to remit the full amount of the premiums when due;

(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this chapter;

(c) A public entity that engages in work or lets a contract for work, in the manner specified in RCW 51.12.050;

(d) A person, firm, or corporation who lets a contract for work, in the manner specified in RCW 51.12.070;

(e) A successor, as defined in RCW 51.08.177, in the manner specified in RCW 51.16.200; and

(f) An officer, member, manager, or other person having control or supervision of payment and/or reporting of family leave insurance, or who is charged with the responsibility for the filing of returns, in the manner specified in RCW 51.48.055.

(4) Notwithstanding subsection (3) of this section, appeals are governed by section 14 of this act.

NEW SECTION. Sec. 2. (1) A person aggrieved by a decision of the department under this chapter must file a notice of appeal with the director, by mail or personally, within thirty days after the date on which a copy of the department's decision was communicated to the person. Upon receipt of the notice of appeal, the director shall request the assignment of an administrative law judge in accordance with chapter 34.05 RCW to conduct a hearing and issue a proposed decision and order. The hearing shall be conducted in accordance with chapter 34.05 RCW.

(2) The administrative law judge's proposed decision and order shall be final and not subject to further appeal unless, within thirty days after the decision is communicated to the interested parties, a party petitions for review by the director. If the director's review is timely requested, the director may order additional evidence by the administrative law judge. On the basis of the evidence before the administrative law judge and such additional evidence as the director may order to be taken, the director shall render a decision affirming, modifying, or setting aside the administrative law judge's decision.

The director's decision becomes final and not subject to further appeal unless, within thirty days after the decision is communicated to the interested parties, a party files a petition for judicial review as provided in chapter 34.05 RCW. The director is a party to any judicial action involving the director's decision and shall be represented in the action by the attorney general.

(3) If, upon administrative or judicial review, the final decision of the department is reversed or modified, the administrative law judge or the court, in its discretion may award reasonable attorneys' fees and costs to the prevailing party. Attorneys' fees and costs owed by the department, if any, are payable from the family leave insurance account.

NEW SECTION. Sec. 15. An employer, temporary help company, employment agency, employee organization, or other person may not discharge, expel, or otherwise discriminate against a person because he or she has filed or communicated to the employer an intent to file a claim, a complaint, or an appeal, or has testified or is about to testify, or has assisted in any proceeding under this chapter, at any time, including during the waiting period described in section 6 of this act and the period in which the person receives family leave insurance benefits under this chapter. This section shall be enforced as provided in RCW 51.48.025.

NEW SECTION. Sec. 16. (1) This chapter is not intended to discourage employers from adopting or retaining policies that provide additional benefits to individuals to address family leave needs.

(2) This chapter is not to be construed to diminish an employer's obligation to comply with a collective bargaining agreement or an employment benefit program or plan that provides greater benefits to individuals than the family leave insurance benefits provided under this chapter.

(3) An agreement by an individual to waive his or her rights under this chapter is void as against public policy.

(4) The benefits provided to individuals under this chapter may not be diminished by a collective bargaining agreement, or an employment benefit program or plan entered into or renewed after the effective date of this section.

NEW SECTION. Sec. 17. This chapter does not create a continuing entitlement or contractual right. The legislature reserves the right to amend or repeal all or part of this chapter at any time, and a benefit or other right granted under this chapter exists subject to the legislature's power to amend or repeal this chapter. There is no vested, private right of any kind against such amendment or repeal.

NEW SECTION. Sec. 18. The director may adopt rules as necessary to implement this chapter. In adopting rules, the director shall maintain consistency with the rules adopted to implement the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), to the extent such rules are not in conflict with this chapter.

NEW SECTION. Sec. 19. (1)(a) Beginning on January 1, 2006, for each individual, each employer shall submit a premium of two cents per hour worked, up to a maximum of forty hours per week, to the department in the manner and at such intervals as the department directs for deposit in the family leave insurance account. In the payment of premiums, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) The director may reduce the amount of the premium from time to time to ensure that the amount is the lowest rate necessary to pay family leave insurance benefits and administrative costs, and maintain actuarial solvency in accordance with recognized insurance principles, of the family leave insurance program on a current basis, and to repay loaned funds from the supplemental pension fund, if any, as required in sections 21 and 22 of this act.

(2)(a) Except as provided in (b) of this subsection, each employer may retain from the earnings of each individual an amount equal to the premium assessed for the individual pursuant to subsection (1) of this section.

(b) None of the amount assessed for the family leave insurance account may be retained from the earnings of individuals covered under RCW 51.16.210.

NEW SECTION. Sec. 20. The family leave insurance account is created in the custody of the state treasurer. All receipts from the premium imposed under section 19 of this act or the penalties imposed under section 13 of this act must be deposited in the account. Expenditures from the account may be used only for the purposes of the family leave insurance program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for benefit payments.

NEW SECTION. Sec. 21. If necessary to ensure that money is available in the family leave insurance account for the administration of the family leave insurance program and the payment of benefits under this chapter, the director may, from time to time, lend funds from the supplemental pension fund to the family leave insurance account. These loaned funds may be expended solely for the purposes of administering the program and paying benefits under this chapter. The director shall repay the supplemental pension fund, plus its proportionate share of earnings from investment of moneys in the supplemental pension fund during the loan period, from the family leave insurance account within one year after the date of the initial loan and within three months after the date of any subsequent loan.

NEW SECTION. Sec. 22. Beginning September 1, 2006, the department shall report to the legislature by September 1 of each year on projected and actual program participation, premium rates, fund balances, and outreach efforts.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. Sections 1 through 23 of this act constitute a new chapter in Title 49 RCW."

Correct the title.

EFFECT:

Modifies the definition of "employer" to specify that employers are employing units that employ fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding year. Makes this definition applicable to an individual's eligibility to receive benefits and the employer's obligation to submit premiums.

Modifies the eligibility requirements to provide that the individual must have been employed: (1) For at least 680 hours and in at least six months during the individual's qualifying year; and (2) for at least six calendar workweeks by the employer from whom family leave is to be taken.

Provides that an eligible employee is entitled to return to the same job or an equivalent position at the end of the period in which he or she receives benefits, with certain exceptions.

Makes technical corrections.

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Appropriations.

March 31, 2005

ESSB 5084 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Establishing a foster youth postsecondary education and training coordination committee. Reported by Committee on Higher Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(a) The majority of foster youth fail to thrive in our educational system and, relative to nonfoster youth, disproportionately few enroll in college or other postsecondary training programs. As a result, former foster youth generally have poor employment and life satisfaction outcomes;

(b) Low expectations, lack of information, fragmented support services, and financial hardship are the most frequently cited reasons for failure of foster youth to pursue postsecondary education or training. Initiatives have been undertaken at both the state and community levels in Washington to improve outcomes for foster youth in transition to independence; however, these initiatives are often not coordinated to complement one another;

(c) Even after they reach the age of eighteen, nonfoster youth often receive financial support from their families to pursue postsecondary education or training. Although the state is the legal guardian for those foster youth who have not been reunited with their families, adopted, or placed into guardianship, after these youth reach the age of eighteen, the state does not consistently provide financial support so that they may pursue postsecondary education or training.

(2) The legislature intends to encourage and support foster youth to pursue postsecondary education or training opportunities. A coordination committee that provides statewide planning and oversight of related efforts will improve the effectiveness of both current and future initiatives to improve postsecondary educational outcomes for foster youth. In addition, the state can provide financial support to former foster youth pursuing higher education or training

by setting aside portions of the state need grant and the state work study programs specifically for foster youth.

Sec. 2. RCW 74.13.570 and 2003 c 112 s 4 are each amended to read as follows:

(1) The department shall establish an oversight committee composed of staff from the children's administration of the department, the office of the superintendent of public instruction, the higher education coordinating board, foster youth, former foster youth, foster parents, and advocacy agencies to develop strategies for maintaining foster children in the schools they were attending at the time they entered foster care and to promote opportunities for foster youth to participate in postsecondary education or training.

(2) The duties of the oversight committee shall include, but are not limited to:

(a) Developing strategies for school-based recruitment of foster homes;

(b) Monitoring the progress of current pilot projects that assist foster children to continue attending the schools they were attending at the time they entered foster care;

(c) Overseeing the expansion of the number of pilot projects;

(d) Promoting the use of best practices, throughout the state, demonstrated by the pilot projects and other programs relating to maintaining foster children in the schools they were attending at the time they entered foster care; ~~(and)~~

(e) Informing the legislature of the status of efforts to maintain foster children in the schools they were attending at the time they entered foster care;

(f) Assessing the scope and nature of statewide need among current and former foster youth for assistance to pursue and participate in postsecondary education or training opportunities;

(g) Identifying available sources of funding available in the state for services to former foster youth to pursue and participate in postsecondary education or training opportunities;

(h) Reviewing the effectiveness of activities in the state to support former foster youth to pursue and participate in postsecondary education or training opportunities;

(i) Identifying new activities, or existing activities that should be modified or expanded, to best meet statewide needs; and

(j) Reviewing on an ongoing basis the progress toward improving educational and vocational outcomes for foster youth.

Sec. 3. RCW 28B.92.060 and 2004 c 275 s 37 are each amended to read as follows:

In awarding need grants, the board shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the board, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The board shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) Financial need as determined by the amount of the family contribution; and

(b) Other considerations (~~brought to the board's attention~~), such as whether the student is a former foster youth.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until ~~(dispersed)~~ disbursed, except that eligible former foster youth shall be assured receipt of a grant.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the board. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the board shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions.

Sec. 4. RCW 28B.92.030 and 2004 c 275 s 35 are each amended to read as follows:

As used in this chapter:

(1) "Institution or institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.92.150.

(2) "Financial aid" means loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

(3) "Needy student" means a post high school student of an institution of higher education who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) "Disadvantaged student" means a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full time student in an institution of higher education, who would otherwise qualify as a needy student, and who is attending an institution of higher education under an established program designed to qualify the student for enrollment as a full time student.

(5) "Board" means the higher education coordinating board.

(6) "Former foster youth" means a person who:

(a) Is between the ages of sixteen and twenty-three;

(b) Has been in foster care in the state of Washington for a minimum of six months since his or her fourteenth birthday; and

(c) Has enrolled or will enroll in an institution of higher education in Washington state within three years of high school graduation or having successfully completed his or her GED.

Sec. 5. RCW 28B.12.060 and 2002 c 354 s 224 are each amended to read as follows:

The higher education coordinating board shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules shall include provisions designed to make employment under the work-study program reasonably available, to the extent of available funds, to all eligible students in eligible postsecondary institutions in need thereof. The rules shall include:

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013, particularly former foster youth as defined in RCW 28B.92.030, except resident students defined in RCW 28B.15.012(2)((f)) (g);

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

(4) Provisions to assure that in the state institutions of higher education, utilization of this work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the director of personnel's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

(5) Provisions to encourage job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. The board shall permit appropriate job placements in other states and other countries.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Fromhold; Hasegawa; Ormsby; Roberts and Sommers.

MINORITY recommendation: Do not pass. Signed by Representatives Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Dunn; Jarrett and Priest

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5085 Prime Sponsor, Senate Committee on Transportation: Holding child car seat installers harmless for damages. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.687 and 2003 c 353 s 5 are each amended to read as follows:

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) If the child is less than six years old (~~and/or~~) or sixty pounds and the passenger seating position equipped with a safety belt system allows sufficient space for installation, then the child (~~will~~) must be restrained in a child restraint system that complies with standards of the United States department of transportation and that is secured in the vehicle in accordance with instructions of the manufacturer of the child restraint system;

(b) If the child is less than one year of age or weighs less than twenty pounds, the child shall be properly restrained in a rear-facing infant seat;

(c) If the child is more than one but less than four years of age or weighs less than forty pounds but at least twenty pounds, the child shall be properly restrained in a forward facing child safety seat restraint system;

(d) If the child is less than six but at least four years of age or weighs less than sixty pounds but at least forty pounds, the child shall be properly restrained in a child booster seat;

(e) If the child is six years of age or older or weighs more than sixty pounds, the child shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting booster seat; and

(f) Enforcement of (a) through (e) of this subsection is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a forward facing child safety seat must ensure that the seat in use is equipped with a four-point shoulder harness system. The visual inspection for usage of a booster seat must ensure that the seat belt properly fits across the

child's lap and the shoulder strap crosses the center of the child's chest. The visual inspection for the usage of a seat belt by a child must ensure that the lap belt properly fits across the child's lap and the shoulder strap crosses the center of the child's chest. In determining violations, consideration to the above criteria must be given in conjunction with the provisions of (a) through (e) of this subsection. The driver of a vehicle transporting a child who is under the age of six years old or weighs less than sixty pounds, when the vehicle is equipped with a passenger side air bag supplemental restraint system, and the air bag system is activated, shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) A person violating subsection (1)(a) through (e) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(3) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian; nor shall failure to use a child restraint system be admissible as evidence of negligence in any civil action.

(4) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, and (d) school buses.

(5) As used in this section "child booster seat" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system.

(6) The requirements of subsection (1)(a) through (e) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

(7)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems."

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

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5087 Prime Sponsor, Senator Kohl-Welles: Providing for a review and update of the best practices audit of compensation and employment for part-time faculty in technical and community colleges. Reported by Committee on Higher 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; Dunn and Jarrett

Passed to Committee on Rules for second reading.

April 1, 2005

ESB 5089 Prime Sponsor, Senator Sheldon: Limiting nuisance noise from off-road vehicles. (REVISED FOR ENGROSSED: Creating a task force to study off-road vehicle noise management.) Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Blake; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5092 Prime Sponsor, Senate Committee on Agriculture & Rural Economic Development: Creating a beginning farmers loan 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; Blake; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kenney; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow and Wallace.

Passed to Committee on Rules for second reading.

April 1, 2005

ESB 5094 Prime Sponsor, Senator Jacobsen: Changing the maximum per parcel rate for conservation district special assessments. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended.

On page 3, line 5, after "over" strike "one million"

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Blake; Chase; Clibborn; Grant; Kenney; Kilmer; McCoy; Morrell; Quall and Wallace.

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

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5098 Prime Sponsor, Senate Committee on Water, Energy & Environment: Regulating the energy efficiency of certain products. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended.

On page 1, line 8, after "and" strike "two billion" and insert "one billion seven hundred million"

On page 7, line 16, after "1.26" strike "and a maximum water consumption factor of 9.5"

On page 7, line 17, after "capacity" strike "," and insert "and"

On page 7, beginning on line 17, after "factor" strike ", and water consumption factor"

On page 3, beginning on line 16, strike all of subsection (8)

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 6, line 5, after "freezers;" strike "(e) digital television adapters;"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

On page 8, beginning on line 20, strike all of subsection (5)

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 11, line 8, after "freezer," strike "digital television adapter,"

On page 11, at the beginning of line 20, strike "digital television adapter,"

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Takko and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Nixon and Sump

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5101 Prime Sponsor, Senate Committee on Water, Energy & Environment: Providing incentives to support renewable energy. 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 the use of renewable energy resources generated from local sources such as solar and wind power benefit our state by reducing the load on the state's electric energy grid, by providing nonpolluting sources of electricity generation, and by the creation of jobs for local industries that develop and sell renewable energy products and technologies.

The legislature finds that Washington state has become a national and international leader in the technologies related to the solar electric markets. The state can support these industries by providing incentives for the purchase of locally made renewable energy products. Locally made renewable technologies benefit and protect the state's environment. The legislature also finds that the state's economy can be enhanced through the creation of incentives to develop additional renewable energy industries in the state.

The legislature intends to provide incentives for the greater use of locally created renewable energy technologies, support and retain existing local industries, and create new opportunities for renewable energy industries to develop in Washington state.

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

(1) "Customer-generated electricity" means the alternating current electricity that is generated from a renewable energy system located on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. A system located on a leasehold interest does not qualify under this definition. "Customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

(2) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

(3) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(4) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(5) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(6) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

(7) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(8) "Standards for interconnection to the electric distribution system" means technical, engineering, operational, safety, and procedural requirements for interconnection to the electric distribution system of a light and power business.

NEW SECTION. Sec. 3. (1) Any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system installed on its property. No incentive may be paid for kilowatt-hours generated before July 1, 2005.

(2)(a) Before submitting the application for the incentive allowed under this section, the applicant shall submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue shall advise the applicant in writing whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(3)(a) By August 1st of each year application for the incentive shall be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) The date of the letter from the department of revenue stating that the renewable energy system is eligible for the incentives under this section;

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system shall notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons receiving incentive payments shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records shall be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and shall add thereto interest on the amount.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) The investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5) No individual, household, business, or local governmental entity is eligible for incentives for more than two thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments shall be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light

and power business upon receipt of the investment cost recovery incentive.

NEW SECTION. Sec. 4. (1) Except as otherwise provided under this section, the investment cost recovery incentive payment under section 3 of this act applies only to customer-generated electricity renewable energy systems that are interconnected to an electric distribution system.

(2) When light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system, the investment cost recovery incentive payment under section 3 of this act shall apply to both customer-generated electricity renewable energy systems that are interconnected to an electric distribution system and to customer-generated electricity renewable energy systems that are not interconnected to an electric distribution system.

(3) For the purposes of this section, uniform standards for interconnection to the electric distribution system have ninety percent of total requirements the same.

NEW SECTION. Sec. 5. (1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under section 3 of this act. The credit shall be taken in a form and manner as required by the department. The credit under this section shall not exceed twenty-five one-hundredths of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or twenty-five thousand dollars, whichever is greater. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) The right to earn tax credits under this section expires June 30, 2010.

NEW SECTION. Sec. 6. (1) Using existing sources of information, the department shall report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, 2009. The report shall measure the impacts of this act, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department shall not conduct any new surveys to provide the report in subsection (1) of this section.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 8. Sections 2 through 6 of this act are each added to chapter 82.16 RCW.

NEW SECTION. Sec. 9. This act expires July 1, 2010.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect July 1, 2005."

Correct the title.

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Nixon; Sump; Takko and Wallace.

Passed to Committee on Finance.

March 31, 2005

E2SSB 5111 Prime Sponsor, Senate Committee on Ways & Means: Providing tax incentives for solar energy systems. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended.

On page 8, line 10, after "(7)" insert "A person claiming credit under chapter 82.62 RCW or RCW 82.04.448 cannot claim a credit under this section.

(8)"

On page 2, line 36, strike "2014" and insert "2010"

On page 6, line 24, strike "2014" and insert "2010"

On page 7, line 1, strike "2014" and insert "2010"

On page 7, line 4, strike "2014" and insert "2010"

On page 8, line 10, strike "2014" and insert "2010"

On page 8, line 23, strike "2014" and insert "2010"

On page 9, after line 23, insert the following:

"NEW SECTION. Sec. 9. (1) Using existing sources of information, the department shall report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, 2009. The report shall measure the impacts of this act, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and any other factors the department selects.

(2) The department shall not conduct any new surveys to provide the report in subsection (1) of this section."

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

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Nixon; Sump; Takko and Wallace.

Passed to Committee on Finance.

March 31, 2005

ESSB 5121 Prime Sponsor, Senate Committee on Transportation: Assessing long-term air transportation needs. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 47.68 RCW 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;
- (d) Existing airspace capacity; and
- (e) The potential for using high-speed passenger transportation facilities, including, but not limited to, light rail, heavy rail, or magnetic levitation transportation to connect airports and how that would affect airport 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.

NEW SECTION. Sec. 2. A new section is added to chapter 47.68 RCW to read as follows:

(1) After submitting the assessment under section 1 of this act, 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, including the potential for high-speed passenger transportation facilities to connect airports, and when capacity may be reached and in which location;

(d) A complete evaluation of surface transportation options to more efficiently transport passengers to and from airports including use of mass transit;

(e) Forecasted use of airport capacity outside the state including airports in Portland, Oregon, and Vancouver, British Columbia;

(f) Identification of all factors to be considered in completing an economic cost-benefit analysis for all communities potentially impacted by airport activities that may be recommended by the aviation planning council created in section 3 of this act. The factors must include, but not be limited to, impacts on surface transportation, job mix, property values, tax base, quality of life, social services, health, and education;

(g) 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

(h) 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.

NEW SECTION. Sec. 3. A new section is added to chapter 47.68 RCW to read as follows:

(1) Upon completion of both the statewide assessment and analysis required under sections 1 and 2 of this act, 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, who shall be the chair of the council; (d) two members of the general public with special knowledge or background in airport issues; (e) two members of the general public, local communities, or nonprofit organizations, representing concerns over the adverse impact of airport activities; (f) an economist knowledgeable in local impacts associated with airport activities; (g) a technical expert familiar with federal aviation administration airspace and control issues; (h) a commercial airport operator; (i) a member of a growth management hearings board; (j) a representative of the Washington airport management association; (k) an airline representative; and (l) an expert in high-speed transportation systems. 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 sections 1 and 2 of this act, 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. In determining these areas, the council shall document the information and rationale involved ensuring that all relevant information was considered including, but not limited to, capacity and needs assessments and the economic cost-benefit analysis associated with any expanded or new airport facilities recommended by the council. The council shall include input from potentially affected communities 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.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus transportation appropriations act, this act is null and void."

Correct the title.

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

MINORITY recommendation: Do not pass. Signed by Representatives B. Sullivan

Passed to Committee on Rules for second reading.

March 31, 2005

SB 5127 Prime Sponsor, Senator Kohl-Welles: Improving services to victims of human trafficking. 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 human trafficking is growing to epidemic proportions and that our state is impacted. Human trafficking is one of the greatest threats to human dignity. It is the commodification of human beings and an assault on human values. Washington is, and must continue to be, a national leader at the state level in the fight against human trafficking.

The legislature recognizes there are many state agencies and private organizations that might be called on to provide services to victims of trafficking of humans. Victims of human trafficking are often in need of services such as emergency medical attention, food and shelter, vocational and English language training, mental health counseling, and legal support. The state intends to improve the

response of state, local, and private entities to incidents of trafficking of humans. Victims would be better served if there is an established, coordinated system of identifying the needs of trafficking victims, protocols for training of service delivery agencies and staff, timely and appropriate delivery of services, and better investigations and prosecutions of trafficking.

Leadership in providing services to victims of trafficking of humans also extends beyond government efforts and is grounded in the work of highly dedicated individuals and community-based groups. Without these efforts the struggle against human trafficking will be very difficult to win. The legislature, therefore, finds that such efforts merit regular public recognition and appreciation. Such recognition and appreciation will encourage the efforts of all persons to end human trafficking, and provide the public with information and education about the necessity of its involvement in this struggle.

NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW to read as follows:

(1) By July 1, 2005, the director of the department of community, trade, and economic development, or the director's designee, shall within existing resources convene and chair a work group to develop written protocols for delivery of services to victims of trafficking of humans. The director shall invite appropriate federal agencies to consult with the work group for the purpose of developing protocols that, to the extent possible, are in concert with federal statutes, regulations, and policies. In addition to the director of the department of community, trade, and economic development, the following shall be members of the work group: The secretary of the department of health, the secretary of the department of social and health services, the attorney general, the director of the department of labor and industries, the commissioner of the employment security department, a representative of the Washington association of prosecuting attorneys, the chief of the Washington state patrol, two members selected by the Washington association of sheriffs and police chiefs, and five members, selected by the director of the department of community, trade, and economic development from a list submitted by public and private sector organizations that provide assistance to persons who are victims of trafficking. The attorney general, the chief of the Washington state patrol, and the secretaries or directors may designate a person to serve in their place.

Members of the work group shall serve without compensation.

(2) The protocols must meet all of the following minimum standards:

(a) The protocols must apply to the following state agencies: The department of community, trade, and economic development, the department of health, the department of social and health services, the attorney general's office, the Washington state patrol, the department of labor and industries, and the employment security department;

(b) The protocols must provide policies and procedures for interagency coordinated operations and cooperation with government agencies and nongovernmental organizations, agencies, and jurisdictions, including law enforcement agencies and prosecuting attorneys;

(c) The protocols must include the establishment of a data base electronically available to all affected agencies which contains the name, address, and telephone numbers of agencies that provide services to victims of human trafficking; and

(d) The protocols must provide guidelines for providing for the social service needs of victims of trafficking of humans, including housing, health care, and employment.

(3) By January 1, 2006, the work group shall finalize the written protocols and submit them with a report to the legislature and the governor.

(4) The protocols shall be reviewed on a biennial basis by the work group to determine whether revisions are appropriate. The director of the department of community, trade, and economic development, or the director's designee, shall within existing resources reconvene and chair the work group for this purpose.

NEW SECTION. **Sec. 3.** 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; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5136 Prime Sponsor, Senator Doumit: Modifying fire protection district property tax levies. 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; Conway; Ericksen; Hasegawa and Santos.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5139 Prime Sponsor, Senate Committee on Transportation: Modifying highway and bridge tolling authority. Reported by Committee on Transportation

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

MINORITY recommendation: Without recommendation. Signed by Representatives Schindler

Passed to Committee on Rules for second reading.

March 30, 2005

ESSB 5140 Prime Sponsor, Senate Committee on Government Operations & Elections: Modifying the disposal of surplus funds of candidates or political committees. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended.

On page 2, line 6, after "to" strike "a public school, school district, or educational service district, or to"

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

MINORITY recommendation: Do not pass. Signed by Representatives Hunt and McDermott

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5145 Prime Sponsor, Senate Committee on Transportation: Establishing a boating safety education program. 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.** It is the intent of the legislature to establish a boating safety education program that contributes to the reduction of accidents and increases the enjoyment of boating by all operators of all recreational vessels on the waters of this state. Based on the 2003 report to the legislature titled "Recreational Boating Safety in Washington, A Report on Methods to Achieve Safer Boating Practices," the legislature recognizes that boating accidents also occur in nonmotorized vessels in this state, but, at this time there is no national educational standard for nonmotorized vessels. Therefore, the commission is hereby authorized and directed to work with agencies and organizations representing nonmotorized vessel activities and individuals operating nonmotorized vessels to decrease accidents of operators in these vessels. It is also the intent of the legislature to encourage boating safety education programs that use volunteer and private sector efforts to enhance boating safety and education for operators of nonmotorized vessels to work closely with the state parks and recreation commission in its efforts to reduce all boating accidents in this state.

Sec. 2. RCW 79A.60.010 and 2003 c 39 s 45 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.

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

((3)) (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.

((4)) (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.

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

((6)) (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.

((7)) (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.

((8)) (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.

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

((10)) (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 section 3 of this act.

(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.

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

((12)) (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.

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

((14)) (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.

((15)) (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.

((16)) (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.

((17)) (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.

((18)) (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.

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

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

((21)) (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.

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

((23)) (29) "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.

((24)) (30) "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.

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

((26)) (32) "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.

((27)) (33) "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.

NEW SECTION. Sec. 3. A new section is added to chapter 79A.60 RCW 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 section 4(3) of this act 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) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) 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 this act, 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) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

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

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

(j) 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 79A.60 RCW to read as follows:

(1) No person shall operate or permit the operation of motor driven boats and vessels with a mechanical power of fifteen horsepower or greater unless the person:

(a) Is at least twelve years of age, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190; and

(b)(i) Has in his or her possession a boater education card, unless exempted under subsection (3) of this section; or

(ii) Is accompanied by and is under the direct supervision of a person sixteen years of age or older who is in possession of a boater education card, or who is not yet required to possess the card as provided in the program phase in section 3(2)(a) of this act.

(2) Any person who can demonstrate they have successfully completed, prior to the effective date of this act, a boating safety education course substantially equivalent to the standards adopted by the commission shall be eligible for a boater education card upon application to the commission and payment of the fee, without having to take a course or equivalency exam as provided in section 3(1) of this act. Successful completion of a boating safety education course could include an original or copy of an original certificate issued by the commission, the United States coast guard auxiliary, or the United States power squadrons, or official certification by these organizations that the individual successfully completed a course substantially equivalent to the standards adopted by the commission.

(3) The following persons are not required to carry a boater education card:

(a) The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the department of fish and wildlife under Title 77 RCW. However, the person when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the department of fish and wildlife or a boater education card;

(b) Any person who possesses a valid marine operator license issued by the United States coast guard when operating a vessel authorized by such coast guard license. However, the person when operating a vessel for recreational purposes must carry either a valid marine operator license issued by the United States coast guard or a boater education card;

(c) Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

(d) Any person at least twelve years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor driven boat or vessel, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190;

(e) Any person who is not a resident of Washington state and who does not operate a motor driven boat or vessel with an engine power of fifteen horsepower or greater in waters of the state for more than sixty consecutive days;

(f) Any person who is not a resident of Washington state and who holds a current out-of-state or out-of-country certificate or card that is equivalent to the rules adopted by the commission;

(g) Any person who has purchased the boat or vessel within the last sixty days, and has a bill of sale in his or her possession to document the date of purchase;

(h) Any person, including those less than twelve years of age, who is involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

(i) Any person who is not yet required to have a boater education card under the phased schedule in section 3(2)(a) of this act; and

(j) Any person born before January 1, 1955.

(4) Except as provided in subsection (3)(a) through (i) of this section, a boater must carry a boater education card while operating a vessel and is required to present the boater education card, or alternative license as provided in subsection (3)(a) and (b) of this section, to a law enforcement officer upon request.

(5) Failure to possess a boater education card required by this section is an infraction under chapter 7.84 RCW. The penalty shall be waived if the boater provides proof to the court within sixty days that he or she has received a boater education card.

(6) No person shall permit the rental, charter, or lease of a motor driven boat or vessel with an engine power of fifteen horsepower or greater to a person without first reviewing with that person, and all other persons who may be permitted by the person to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist.

NEW SECTION. Sec. 5. A new section is added to chapter 79A.60 RCW to read as follows:

The boating safety education certification account is created in the custody of the state treasurer. All receipts from fees collected for the issuance of a boater education card shall be deposited in the account and shall be used only for the administration of sections 3 and 4 of this act. Only the state parks and recreation commission 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."

Signed by Representatives B. Sullivan, Chairman; Buck, Ranking Minority Member; Blake; Dickerson; Eickmeyer; Hunt and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Upthegrove, Vice Chairman; Kretz, Assistant Ranking Minority Member; DeBolt and Orcutt

Passed to Committee on Appropriations.

March 30, 2005

2SSB 5154 Prime Sponsor, Senate Committee on Ways & Means: Providing a leasehold excise tax exemption for certain historical property. 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; Conway; Ericksen; Hasegawa and Santos.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5157 Prime Sponsor, Senate Committee on Judiciary: Revising provisions relating to local law enforcement automatic fingerprint identification systems. 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; Kagi; Kirby and Strow.

Passed to Committee on Appropriations.

March 29, 2005

ESSB 5158 Prime Sponsor, Senate Committee on Health & Long-Term Care: Modifying the uniform health care information act. 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 70.02.010 and 2002 c 318 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, (~~residence, sex~~) 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) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(4) "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) "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) "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 ~~((record))~~ required accounting of disclosures of health care information.

(7) "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) "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.

~~((8))~~ (9) "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.

~~((9))~~ (10) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

~~((10))~~ (11) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

~~((11))~~ (12) "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) "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.

~~((13))~~ (14) "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.

~~((13))~~ (15) "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) "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. 2. RCW 70.02.020 and 1993 c 448 s 2 are each amended to read as follows:

(1) Except as authorized in RCW 70.02.050, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

~~((Health care providers or facilities shall chart all disclosures, except to third-party payors, of health care information, such as chartings to become part of the health care information.))~~

(2) A patient has a right to receive an accounting of disclosures of health care information made by a health care provider or a health care facility in the six years before the date on which the accounting is requested, except for disclosures:

- ~~(a) To carry out treatment, payment, and health care operations;~~
- ~~(b) To the patient of health care information about him or her;~~
- ~~(c) Incident to a use or disclosure that is otherwise permitted or required;~~
- ~~(d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;~~
- ~~(e) Of directory information;~~
- ~~(f) To persons involved in the patient's care;~~
- ~~(g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;~~
- ~~(h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and~~
- ~~(i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.~~

Sec. 3. RCW 70.02.030 and 2004 c 166 s 19 are each amended to read as follows:

(1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under RCW 70.02.090.

(2) A health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider or health care facility shall:

- (a) Be in writing, dated, and signed by the patient;
- (b) Identify the nature of the information to be disclosed;
- (c) Identify the name ~~(, address,)~~ and institutional affiliation of the person or class of persons to whom the information is to be disclosed;
- (d) ~~((Except for third-party payors,))~~ Identify the provider or class of providers who ~~((is))~~ are to make the disclosure; ~~((and))~~
- (e) Identify the patient; and
- (f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

(4) Unless disclosure without authorization is otherwise permitted under RCW 70.02.050 or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:

- ~~(a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or~~
- ~~(b) Third-party payors if the information is only disclosed for payment purposes.~~

(5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

~~((5))~~ (6) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made. ~~((This requirement shall not apply to disclosures to third-party payors.))~~

~~((6) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or disciplinary authority under chapter 18.71 or 18.130 RCW, when the patient is under the supervision of the department of corrections, or to provide information to third-party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than ninety days after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form. If the authorization does not contain an expiration date and the patient is not under the supervision of the department of corrections, it expires ninety days after it is signed.))~~

(7) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

Sec. 4. RCW 70.02.050 and 1998 c 158 s 1 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, ~~((or))~~ 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) ~~((Oral, and made))~~ 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) ~~((In the case of a hospital or health care provider to provide, in cases reported by))~~ To fire, police, sheriff, or ~~((other))~~ 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) (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 county coroners and medical examiners for the investigations of deaths;

(d) 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."

Correct the title.

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

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5161 Prime Sponsor, Senate Committee on Transportation: Including reports of driving distractions in accident reports. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Appleton; Campbell; Dickerson; Ericksen; Hankins; Hudgins; Jarrett; Kilmer; Lovick; Rodne; Sells; Simpson; B. Sullivan; Takko and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Buck; Curtis; Flannigan; Morris; Nixon; Schindler; Shabro and Upthegrove

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5173 Prime Sponsor, Senate Committee on Judiciary: Enacting the Uniform Mediation Act. 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; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5175 Prime Sponsor, Senator Shin: Declaring that international companies investing in Washington are eligible for tax incentives. Reported by Committee on Economic Development, Agriculture & Trade

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

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5176 Prime Sponsor, Senate Committee on International Trade & Economic Development: Regarding department of community, trade, and economic development programs. Reported by Committee on Economic Development, Agriculture & Trade

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

Passed to Committee on Rules for second reading.

March 29, 2005

SSB 5178 Prime Sponsor, Senate Committee on Health & Long-Term Care: Issuing a moratorium on

licensing specialty hospitals. Reported by Committee on Health Care

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

Passed to Committee on Rules for second reading.

March 31, 2005

SB 5179 Prime Sponsor, Senator Morton: Studying forest health issues. 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. 2004 c 218 s 4 (uncodified) is amended to read as follows:

(1) A work group is created to study opportunities to improve the forest health issues enumerated in section 1 of this act that are facing forest land in Washington and to help the commissioner of public lands develop a strategic plan under section 3 of this act. 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 section 1 of this act;

(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 section 1 of this act 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 of this act 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, 2004, 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. By December 31, 2005, the work group must amend or resubmit the findings and recommendations submitted to the legislature under subsection (4) of this section to reflect the end results of the public process.

(7) This section expires June 30, ((2005)) 2006."

Signed by Representatives B. Sullivan, Chairman; Blake; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Appropriations.

March 31, 2005

SB 5180 Prime Sponsor, Senator Kastama: Authorizing the economic development finance authority to continue issuing bonds. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Cox; DeBolt; Eickmeyer; Ericks; Ericksen; Flannigan; Green; Hasegawa; Holmquist; Kretz; Kristiansen; Lantz; McCune; Moeller; Morrell; Newhouse; O'Brien; Roach; Schual-Berke; Serben; Springer; Strow and Upthegrove.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5182 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Requiring disclosures for single burial use of multiple interment space. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 2, beginning on line 1, after "must" strike all material through "interment" on line 2, and insert "include the following disclosure on the written statement, contract, or other document in conspicuous bold face type no smaller than other text provisions in the written statement, contract, or other document, to be initiated by the person making the cemetery arrangements in immediate proximity to the space reserved for the signature lines:

"DISCLOSURE OF MULTIPLE INTERMENT

State law provides that "multiple interment" means two or more noncremated human remains are buried in the ground, in outer burial enclosures or chambers, placed one on top of another, with a ground level surface the same size as a single grave or right of interment"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse; Hudgins and McCoy.

Passed to Committee on Rules for second reading.

March 29, 2005

ESSB 5186 Prime Sponsor, Senate Committee on Health & Long-Term Care: Increasing the physical activity of the citizens of Washington state. 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 regular physical activity is essential to maintaining good health and reducing the rates of chronic disease. The legislature further finds that providing opportunities for walking, biking, horseback riding, and other regular forms of exercise is best accomplished through collaboration between the private sector and local, state, and institutional policymakers. This collaboration can build communities where people find it easy and safe to be physically active. It is the intent of the legislature to promote policy and planning efforts that increase access to inexpensive or free opportunities for regular exercise in all communities around the state.

Sec. 2. RCW 36.70A.070 and 2004 c 196 s 1 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, 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; 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). 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). 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, existing pedestrian sidewalks on all major arterial roadways, signed or marked bicycle lanes on any functionally classified roadways, and off-road separated bicycle paths or multiuse bicycle-pedestrian trails, 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:

(A) Inventory of existing pedestrian and bicycle facilities as described in this subsection (6); and

(B) Any planned improvements to pedestrian and bicycle facilities that address enhanced community access and safety for new or improved pedestrian and bicycle facilities.

(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.

Sec. 3. RCW 36.81.121 and 1997 c 188 s 1 are each amended to read as follows:

(1) At any time before adoption of the budget, the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for

the ensuing six calendar years. If the county has adopted a comprehensive plan pursuant to chapter 35.63 or 36.70 RCW, the inherent authority of a charter county derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall include proposed road and bridge construction work and other transportation facilities and programs deemed appropriate, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. The program shall include any new or enhanced bicycle or pedestrian facilities identified pursuant to RCW 36.70A.070(6) or other applicable changes that promote nonmotorized transit. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the county's jurisdiction.

(4) The six-year plan for each county shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

Sec. 4. RCW 35.77.010 and 1994 c 179 s 1 and 1994 c 158 s 7 are each reenacted and amended to read as follows:

(1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the city or town has adopted a comprehensive plan pursuant to chapter 35.63 or 35A.63 RCW, the inherent authority of a first class city derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan. The program shall include any new or enhanced bicycle or pedestrian facilities identified pursuant to RCW 36.70A.070(6) or other applicable changes that promote nonmotorized transit.

The program shall be filed with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city transportation needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive transportation program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year plan for each city or town shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the city's or town's jurisdiction.

Sec. 5. RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and 1999 c 59 s 1 are each reenacted and amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights of way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

Sec. 6. RCW 28A.300.040 and 1999 c 348 s 6 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall

determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To act as ex officio member and the chief executive officer of the state board of education;

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(10) To issue certificates as provided by law;

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(15) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(16) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(17) To perform such other duties as may be required by law.

Sec. 7. RCW 28A.320.015 and 1992 c 141 s 301 are each amended to read as follows:

(1) The board of directors of each school district may exercise the following:

(a) The broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education and daily physical activity of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and

(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

(2) Before adopting a policy under subsection (1)(a) of this section, the school district board of directors shall comply with the notice requirements of the open public meetings act, chapter 42.30 RCW, and shall in addition include in that notice a statement that sets forth or reasonably describes the proposed policy. The board of directors shall provide a reasonable opportunity for public written and oral comment and consideration of the comment by the board of directors.

NEW SECTION. **Sec. 8.** (1) The health care authority, in coordination with the department of personnel, the department of health, health plans participating in public employees' benefits board programs, and the University of Washington's center for health promotion, may create a worksite health promotion program to develop and implement initiatives designed to increase physical activity and promote improved self-care and engagement in health care decision-making among state employees.

(2) The health care authority shall report to the governor and the legislature by December 1, 2006, on progress in implementing, and evaluating the results of, the worksite health promotion program."

Correct the title.

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

Passed to Committee on Appropriations.

March 29, 2005

2SSB 5202 Prime Sponsor, Senate Committee on Ways & Means: Requiring a study of public employee health plans and health savings account options. Reported by Committee on Health Care

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

MINORITY recommendation: Without recommendation. Signed by Representatives Appleton and Hinkle

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5222 Prime Sponsor, Senator Esser: Changing provisions relating to the insanity defense. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.77.020 and 1998 c 297 s 30 are each amended to read as follows:

(1) At any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel, and if the person is indigent the court shall appoint counsel to assist him or her. A person may waive his or her right to counsel; but such waiver shall only be effective if a court makes a specific finding that he or she is or was competent to so waive. In making such findings, the court shall be guided but not limited by the following standards: Whether the person attempting to waive the assistance of counsel, does so understanding:

(a) The nature of the charges;
 (b) The statutory offense included within them;
 (c) The range of allowable punishments thereunder;
 (d) Possible defenses to the charges and circumstances in mitigation thereof; and
 (e) All other facts essential to a broad understanding of the whole matter.

(2) Whenever any person is subjected to an examination pursuant to any provision of this chapter, he or she may retain an expert or professional person to perform an examination in his or her behalf. In the case of a person who is indigent, the court shall upon his or her request assist the person in obtaining an expert or professional person to perform an examination or participate in the hearing on his or her behalf. An expert or professional person obtained by an indigent person pursuant to the provisions of this chapter shall be compensated for his or her services out of funds of the department, in an amount determined by the secretary to be fair and reasonable.

(3) Any time the defendant is being examined by court appointed experts or professional persons pursuant to the provisions of this chapter, the defendant shall be entitled to have his or her attorney present.

(4) In a competency evaluation conducted under this chapter, the defendant may refuse to answer any question if he or she believes his or her answers may tend to incriminate him or her or form links leading to evidence of an incriminating nature.

(5) In a sanity evaluation conducted under this chapter, if a defendant refuses to answer questions or to participate in an examination conducted in response to the defendant's assertion of an insanity defense, the court shall exclude from evidence at trial any testimony or evidence from any expert or professional person obtained or retained by the defendant.

NEW SECTION. Sec. 2. This act applies to all examinations performed on or after the effective date of this act.

NEW SECTION. Sec. 3. 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; Campbell; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5234 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Expanding hunter access to certain private lands. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Buck, Ranking Minority Member; DeBolt; Eickmeyer and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Kretz, Assistant Ranking Minority Member; Blake; Dickerson; Hunt and Orcutt

Passed to Committee on Appropriations.

April 1, 2005

SSB 5242 Prime Sponsor, Senate Committee on Human Services & Corrections: Changing penalties for possession of weapons by inmates. 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; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

April 1, 2005

SB 5254 Prime Sponsor, Senator Jacobsen: Creating the legislative youth advisory council. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass. 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.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5256 Prime Sponsor, Senate Committee on Human Services & Corrections: Revising provisions relating to the use of risk assessments in the supervision of offenders who committed misdemeanors and gross misdemeanors.

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; Kagi; Kirby and Strow.

Passed to Committee on Appropriations.

March 31, 2005

SB 5267 Prime Sponsor, Senator Haugen: Clarifying the ability of Washington state patrol officers to engage in private law enforcement off-duty employment in plainclothes for private benefit. 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; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5270 Prime Sponsor, Senate Committee on Ways & Means: Assisting vessel registration enforcement. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 82.49 RCW to read as follows:

An owner of a vessel that is not registered as required by chapter 88.02 RCW and for which watercraft excise tax is due under this chapter is liable for a penalty in the following amount:

- (1) One hundred dollars for the owner's first violation;
- (2) Two hundred dollars for the owner's second violation involving the same or any other vessel; or
- (3) Four hundred dollars for the owner's third and successive violations involving the same or any other vessel.

The department may collect this penalty under the procedures established in chapter 82.32 RCW. The penalty imposed under this section is in addition to any other civil or criminal penalty imposed by law.

NEW SECTION. Sec. 2. A new section is added to chapter 88.02 RCW to read as follows:

(1) A marina that leases permanent moorage to vessels must require the following information from the lessee as a condition of leasing moorage space:

(a) The name, address, and telephone number of the legal owner of the vessel;

(b) The name of the lessee, if different than the owner;

(c) The vessel's country or state of registration and registration number or the vessel's Coast Guard registration (if applicable); and

(d) The date on which the moorage lease began.

A marina shall permit any authorized agent of the department of revenue to inspect these records at a mutually agreed time, within thirty days of written request by the department.

(2) If the moorage applicant's vessel is not registered in this state at the time the initial lease is executed, the marina must inform the moorage applicant of the state law requiring vessel registration and the penalties assessed for failure to comply with the state's vessel registration laws. After this, it is the moorage applicant's responsibility to register the vessel.

NEW SECTION. Sec. 3. Section 1 of this act applies to any violation that occurs on or after the effective date of this act. Section 2 of this act applies to any lease of permanent moorage that is entered into on or after the effective date of this act.

NEW SECTION. Sec. 4. This act takes effect August 1, 2005."

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

Passed to Committee on Finance.

March 31, 2005

SSB 5278 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Establishing the ocean policy review commission. 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 Washington's coastal and ocean resources are among the most important of its natural resources and that the state holds these resources in trust for the people of Washington. Ocean based activities, such as fishing, aquaculture, tourism, recreation, and marine transportation have historically played a vital role in Washington's economy and culture. New ocean uses are being proposed in such areas as renewable energy, marine biotechnology, and ocean observing. A healthy ocean is an integral part of the high quality of life enjoyed in the state. Therefore, the people of Washington have an obligation to be good stewards of the ocean so that coastal and ocean resources are preserved for future generations.

Washington's coastal and ocean resources face significant challenges, including the preservation of water quality, fish populations, and fish and wildlife habitat, and the utilization of opportunities offered by new sustainable use activities. Coordinated

policy regarding Washington's coastal and ocean resources will improve the efficiency and effectiveness of the state's ocean related programs and activities. The coordination of Washington's scientific resources will increase the quality and quantity of information available to assess current and proposed use activities. Additionally, the movement of ocean currents, atmospheric winds, and marine fish and wildlife across state and national borders and the multijurisdictional reach of many users of the coast and sea make cooperation between Washington and adjacent jurisdictions necessary.

The United States commission on ocean policy studied and issued a report documenting the state of our nation's oceans and provided ocean policy recommendations. In response to the final report of the United States commission on ocean policy, the president issued the United States ocean action plan and created the cabinet-level committee on ocean policy in December 2004. Through these actions, the federal government has evidenced an intent to facilitate coordination between federal, state, tribal, local governments, and other interested groups and to provide funding for ocean resources programs and activities.

An evaluation of the condition of the state's coastal and ocean resources and the development of options for addressing the opportunities and challenges facing these resources will facilitate the adoption of a more efficient and effective ocean policy.

NEW SECTION. Sec. 2. (1) The ocean policy review commission is established.

(2) The commission is composed of the following members:

- (a) The governor or the governor's designee;
- (b) One representative from each major caucus in the senate, appointed by the president of the senate;
- (c) One representative from each major caucus in the house of representatives, appointed by the speaker of the house of representatives;
- (d) The director of the department of fish and wildlife or the director's designee;
- (e) The commissioner of public lands or the commissioner's designee;
- (f) The director of the department of ecology or the director's designee; and
- (g) Six individuals appointed by the governor possessing recognized expertise on ocean policy, program, or research issues. The governor shall consult with a wide range of sources when appointing commission members, including leaders from each major caucus of the senate and house of representatives.

(3) The ocean policy review commission shall be convened by the governor no later than June 1, 2005. Upon convening, the commission shall select a chair to preside over commission meetings and a vice-chair to preside in the chair's absence.

(4) The commission shall convene a working group to provide information, suggestions, and feedback to the commission as it carries out the requirements of sections 3 and 4 of this act. The commission shall determine the composition of the working group, which should include, but is not limited to, a representative or representatives of:

- (a) The federal government;
- (b) Tribal government;
- (c) Local coastal government;
- (d) Port districts;
- (e) Organizations engaged in environmental protection;
- (f) Businesses engaged in fishing;
- (g) Organizations engaged in ocean science or technology;

(h) Recreational fishing interests; and

(i) Land development interests.

(5) Staff to the ocean policy review commission must be provided by the department of ecology, the department of fish and wildlife, and the department of natural resources. Upon request by the commission, any state agency must provide information within the scope of the commission's work. The commission may also contract for technical assistance on any topic or element of the commission's review with the University of Washington, where expertise in marine affairs and ocean and fishery sciences is extensive.

(6) Members of the ocean policy review commission and the working group shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 3. The ocean policy review commission shall, upon convening, examine the findings and recommendations of the United States commission on ocean policy. The commission shall identify ocean and coastal programs currently operating in the state. Additionally, the commission shall identify recommendations from the United States commission on ocean policy that could be implemented immediately or by December 31, 2006. The commission shall report these findings and recommendations to the governor and the appropriate policy and fiscal committees of the senate and house of representatives by December 31, 2005.

NEW SECTION. Sec. 4. (1) In addition to the requirements in section 3 of this act, the ocean policy review commission shall:

- (a) Review and summarize the condition of Washington's coastal and ocean resources and their contribution to the state's character, quality of life, and economic vitality;
- (b) Review and summarize the various interests, roles, and responsibilities of public entities, tribal interests, and other stakeholders in the protection and management of Washington's coastal and ocean resources;
- (c) Identify and recommend ways to more effectively protect and manage coastal and ocean resources and take advantage of appropriate new opportunities to use such resources;
- (d) Identify and recommend ways to improve coordination between state agencies on coastal and ocean resources issues;
- (e) Identify and recommend ways to improve the state's coordination with Oregon, British Columbia, the federal government, other states, and tribal and local governments on coastal and ocean resources issues;
- (f) Identify and recommend ways to improve coordination of scientific and technological information and capabilities within the state;
- (g) Identify and recommend ways to finance coastal and ocean protection, management, and development programs; and
- (h) Review all existing laws, regulations, and programs for conserving, protecting, and restoring fisheries.

(2) In carrying out this section, the ocean policy review commission shall provide for extensive public participation. The commission shall schedule its meetings in locations throughout the state, including meetings in at least five different coastal locations. Additionally, the commission shall attempt to schedule its meetings in locations and at times convenient for public attendance.

(3) The ocean policy review commission shall report these findings and recommendations to the governor and the appropriate policy and fiscal committees of the senate and house of representatives by December 31, 2006.

NEW SECTION. Sec. 5. The ocean policy review commission and its powers and duties terminate June 30, 2007.

NEW SECTION. Sec. 6. A new section is added to chapter 43.143 RCW to read as follows:

The coastal and ocean resources account is created in the custody of the state treasurer. All receipts from gifts or grants to the account, or legislative appropriations to the account, must be deposited in the account. Expenditures from the account may only be used for coastal and ocean resources programs or activities. Only the governor or the governor'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.

NEW SECTION. Sec. 7. (1) The governor or the governor's designee shall work to secure federal grants and other sources of funding for inclusion in the coastal and ocean resources account during the existence of the ocean policy review commission.

(2) The governor or the governor's designee, with participation by the members of the ocean policy review commission, shall represent the state in coastal and ocean resources discussions with the federal government, other states, and tribal and local governments during the existence of the ocean policy review commission.

NEW SECTION. Sec. 8. 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 June 1, 2005."

Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Appropriations.

March 31, 2005

SSB 5282 Prime Sponsor, Senate Committee on Human Services & Corrections: Clarifying earned release provisions that apply to city and county jails. Reported by Committee on Criminal Justice & Corrections

MAJORITY recommendation: Do pass. Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Kagi; Kirby and Strow.

MINORITY recommendation: Do not pass. Signed by Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 30, 2005

ESSB 5285 Prime Sponsor, Senate Committee on Water, Energy & Environment: Updating the water quality joint development act to provide local government flexibility for improving drinking water and treatment services. (REVISED FOR ENGROSSED: Updating the water quality joint development act to provide local government flexibility.) 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; Takko and Woods.

Passed to Committee on Rules for second reading.

March 28, 2005

SSB 5289 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Disregarding from federal accountability reporting those students receiving home-based instruction who participate in running start. 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; Santos; Shabro and Tom.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5290 Prime Sponsor, Senate Committee on Agriculture & Rural Economic Development: Including goats in theft of livestock in the first degree. 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 9A.56.080 and 2003 c 53 s 74 are each amended to read as follows:

(1) Every person who, with intent to sell or exchange and to deprive or defraud the lawful owner thereof, willfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates any horse, mule, cow, heifer, bull, steer, swine, goat, or sheep is guilty of theft of livestock in the first degree.

(2) Theft of livestock in the first degree is a class B felony.

Sec. 2. RCW 4.24.320 and 2003 c 53 s 4 are each amended to read as follows:

Any person who suffers damage(§) to livestock as a result of actions described in RCW ((~~9A.48.080(c)~~) 16.52.205 or any owner of ((~~a horse, mule, cow, heifer, bull, steer, swine, or sheep~~)) livestock who suffers damage(§) as a result of a willful, unauthorized act described in RCW 9A.56.080 or 9A.56.083 may bring an action against the person or persons committing the act in a court of competent jurisdiction for exemplary damages up to three times the actual damages sustained, plus attorney's fees. As used in this section, "livestock" means the animals specified in RCW 9A.56.080.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 30, 2005
SB 5307 Prime Sponsor, Senator Keiser: Modifying requirements for the operation of amusement rides. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Rules for second reading.

March 31, 2005
SSB 5309 Prime Sponsor, Senate Committee on Human Services & Corrections: Defining sexual misconduct with a minor. 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; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 30, 2005
SB 5311 Prime Sponsor, Senator Rasmussen: Creating an autism task force. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended.

On page 2, line 2, after "needs of" strike "children" and insert "individuals"

On page 2, line 4, after "Washington" strike "children" and insert "individuals"

On page 2, line 8, after "(2) The" strike "committee" and insert "task force"

On page 2, line 23, after "district;" strike "and"

On page 2, line 24, after "district" insert "; and (h) An expert in the field of early intervention services"

On page 3, after line 8, insert the following:
 "(5) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060."

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Passed to Committee on Rules for second reading.

March 31, 2005
SB 5321 Prime Sponsor, Senator Haugen: Regulating disclosure of addresses of vehicle owners. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.12.370 and 2004 c 230 s 1 are each amended to read as follows:

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers;

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from law enforcement agencies or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business. The residence address may also be disclosed for use in legal proceedings or preparation for legal proceedings. Legal proceedings include, but are not limited to, lawsuits and repossessions.

If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

Sec. 2. RCW 46.12.380 and 1995 c 254 s 10 are each amended to read as follows:

(1) Notwithstanding the provisions of chapter 42.17 RCW, the name or address of an individual vehicle owner shall not be released by the department, county auditor, or agency or firm authorized by the department except under the following circumstances:

(a) The requesting party is a business entity that requests the information for use in the course of business;

(b) The request is a written request that is signed by the person requesting disclosure that contains the full legal name and address of the requesting party, that specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(2) Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from law enforcement agencies or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business. The residence address may also be disclosed for use in legal proceedings or preparation for legal proceedings. Legal

proceedings include, but are not limited to, lawsuits and repossessions.

~~(3)~~ (3) The disclosing entity shall retain the request for disclosure for three years.

~~((3))~~ (4) Whenever the disclosing entity grants a request for information under this section by an attorney or private investigator, the disclosing entity shall provide notice to the vehicle owner, to whom the information applies, that the request has been granted. The notice also shall contain the name and address of the requesting party.

~~((4))~~ (5) Any person who is furnished vehicle owner information under this section shall be responsible for assuring that the information furnished is not used for a purpose contrary to the agreement between the person and the department.

~~((5))~~ (6) This section shall not apply to requests for information by governmental entities or requests that may be granted under any other provision of this title expressly authorizing the disclosure of the names or addresses of vehicle owners.

~~((6))~~ (7) This section shall not apply to title history information under RCW 19.118.170."

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Appleton; Campbell; Curtis; Dickerson; Flannigan; Hankins; Hudgins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Sells; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Woods, Ranking Minority Member; Buck; Ericksen; Schindler and Shabro

Passed to Committee on Rules for second reading.

April 1, 2005

SB 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 finds that state-supported economic development efforts, including work force training, technology transfer, and industrial modernization, can make a significant difference in the health and diversification of the state's economy. There are numerous federal and private economic development grant programs and research projects designed to increase the competitiveness of American firms and local work forces, for which state agencies and local consortiums are eligible to apply. The legislature further finds that state agencies in Washington have not maximized the opportunities available to receive federal and private funds to augment state economic development efforts.

The legislature declares that it is the state's policy to maximize the use of federal and private funds for economic development purposes and to devote state resources to leverage federal and private dollars to supplement state economic development efforts. In furtherance of this policy, it is the purpose of section 2 of this act to

authorize and fund a technical assistance and grant writing program within the department of community, trade, and economic development.

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

(1) The economic development grants program is created in the department to be staffed by at least one grant writer either on contract or on staff. Program staff shall:

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

(b) Stay abreast of grant opportunities with private foundations and businesses;

(c) Correspond and meet with federal officials, including those in the small business administration, the department of labor, the department of commerce, and the department of health and human services, as well as foundation and business officials, on the prospects for obtaining federal and private funds for economic development purposes in Washington state;

(d) Apprise the agency directors and division heads of the department of community, trade, and economic development, the employment security department, the department of agriculture, the Washington technology center, the Washington manufacturing service, and other state agencies as appropriate, of the opportunities for federal and private grant dollars for economic development projects;

(e) Assist state agencies in their grant-seeking efforts for economic development projects. Grant writing for and assistance in grant writing for projects sponsored or cosponsored by state agencies shall be the highest priority of the program's work;

(f) Write grant requests to further the state's economic development efforts;

(g) Facilitate joint efforts between agencies and between local consortiums and state agencies that will increase the likelihood of success in grant seeking; and

(h) Garner the political support necessary from federal and state elected and appointed officials for success in grant seeking.

(2) The department shall submit to the appropriate committees of the legislature an annual list of grant applications submitted, grant awards received, and the total amount of grant funds received during the year. The list shall be due by December 1st of each year."

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Blake; Chase; Clibborn; Grant; Kenney; Kilmer; McCoy; Morrell; Quall and Wallace.

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

Passed to Committee on Appropriations.

March 30, 2005

ESB 5332 Prime Sponsor, Senator Kline: Honoring the Reverend Doctor Martin Luther King, Jr. Reported by Committee on State Government Operations & Accountability

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

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

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5340 Prime Sponsor, Senator Rasmussen: Creating the military department capital account and rental and lease account. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Cox; Eickmeyer; Ericks; Ericksen; Flannigan; Green; Hasegawa; Holmquist; Kretz; Kristiansen; Lantz; McCune; Moeller; Morrell; O'Brien; Roach; Serben; Springer and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5348 Prime Sponsor, Senate Committee on Water, Energy & Environment: Authorizing certain PUDs to operate an electrical appliance repair service. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Ericks; Hudgins; Takko and Wallace.

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

Passed to Committee on Rules for second reading.

March 30, 2005

ESSB 5349 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Creating a dyslexia reading instruction pilot program. 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; Santos; Shabro and Tom.

Passed to Committee on Appropriations.

March 31, 2005

SB 5352 Prime Sponsor, Senator Esser: Revising provisions relating to animal cruelty. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 16.52.205 and 1994 c 261 s 8 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) Animal cruelty in the first degree is a class C felony.

Sec. 2. RCW 16.52.207 and 1994 c 261 s 9 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary ~~((food, water;))~~ shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.

(4) In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

Sec. 3. RCW 16.52.117 and 1994 c 261 s 11 are each amended to read as follows:

(1) ~~((Any))~~ A person ((who does any of the following is guilty of a gross misdemeanor punishable by imprisonment not to exceed one year, or by a fine not to exceed five thousand dollars, or by both fine and imprisonment)) commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, ~~((or))~~ breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

~~(b) ((For amusement or gain causes any animal to fight with another animal, or causes any animals to injure each other; or~~

~~(c) Permits any act in violation of (a) or (b) of this subsection to be done on any premises under his or her charge or control, or promotes or aids or abets any such act.))~~ Promotes, organizes, conducts, participates in, advertises, or performs any service in the furtherance of an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

~~(2) ((Any person who is knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition of the fighting of animals, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subsection (1)(b) of this section, with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.))~~ A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section ~~((may))~~ prohibits the following:

(a) The use of ~~((dogs))~~ animals in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of ~~((dogs))~~ animals in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law."

Correct the title.

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

Passed to Committee on Appropriations.

April 1, 2005

ESB 5355 Prime Sponsor, Senator Doumit: Modifying provisions for salmon and steelhead recovery in the lower Columbia region. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Blake; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 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

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; Jarrett; Ormsby; Priest and Roberts.

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5370 Prime Sponsor, Senate Committee on Ways & Means: Creating the economic development strategic reserve account. 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. A new section is added to chapter 43.330 RCW to read as follows:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, in consultation with the director of the department of community, trade, and economic development and the public works board, may authorize expenditures from the account, subject to appropriation by the legislature.

(3) Funding for a minimum of one full-time equivalent staff position for the economic development commission and to cover any other operational costs of the commission may be provided only through an operating appropriation to the account.

(4) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Contingent on the funding of the account, expenditures may be authorized for:

(a) Work force development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility; and

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may be provided under a contractual arrangement ensuring that the state will receive

appropriate consideration, such as an assurance of job creation or retention.

(5) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of community, trade, and economic development or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

Sec. 2. RCW 43.155.050 and 2001 c 131 s 2 are each amended to read as follows:

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. In addition to other appropriations, beginning July 1, 2007, and continuing until June 30, 2011, ten million dollars from the public works assistance account will be appropriated each biennium to the economic development strategic reserve account to be used for public infrastructure expenditures only."

Correct the title.

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Blake; Chase; Clibborn; Grant; Kenney; Kilmer; McCoy; Morrell; Quall and Wallace.

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

Passed to Committee on Capital Budget.

April 1, 2005

ESB 5381 Prime Sponsor, Senator Kohl-Welles: Authorizing an independent, nonprofit Washington academy of sciences. Reported by Committee on Higher Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that public policies and programs will be improved when informed by independent scientific analysis and communication with state and local policymakers. Throughout the state there are highly qualified persons in a wide range of scientific disciplines who are willing to contribute their time and expertise in such reviews, but that presently there is lacking an organizational structure in which the entire scientific community may most effectively respond to requests for assessments of complex public policy questions. Therefore it is the purpose of this act to authorize the creation of the Washington academy of sciences as a nonprofit entity independent of government, whose principal mission will be the provision of scientific analysis and recommendations on questions referred to the academy by the governor, the governor's designee, or the legislature.

NEW SECTION. Sec. 2. The Washington academy of sciences authorized to be formed under section 3 of this act shall serve as a principal source of scientific investigation, examination, and reporting on scientific questions referred to the academy by the governor or the legislature under the provisions of section 4 of this act. Nothing in this section or this chapter supersedes or diminishes the responsibilities performed by scientists employed by the state or its political subdivisions.

NEW SECTION. Sec. 3. (1) The presidents of the University of Washington and Washington State University shall jointly form and serve as the cochairs of an organizing committee for the purpose of creating the Washington academy of sciences as an independent entity to carry out the purposes of this chapter. The committee should be representative of appropriate disciplines from the academic, private, governmental, and research sectors.

(2) Staff from the University of Washington and Washington State University, and from other available entities, shall provide support to the organizing committee under the direction of the cochairs.

(3)(a) The committee shall investigate organizational structures that will ensure the participation or membership in the academy of scientists and experts with distinction in their fields, and that will ensure broad participation among the several disciplines that may be called upon in the investigation, examination, and reporting upon questions referred to the academy by the governor or the legislature.

(b) The organizational structure shall include a process by which the academy responds to inquiries from the governor or the legislature, including but not limited to the identification of research projects, past or present, at Washington or other research institutions and the findings of such research projects.

(4) The committee cochairs shall use their best efforts to form the committee by January 1, 2006, and to complete the committee's review by April 30, 2007. By April 30, 2007, the committee, or such individuals as the committee selects, shall file articles of incorporation to create the academy as a Washington independent organizational entity. The articles shall expressly recognize the power and responsibility of the academy to provide services as described in section 4 of this act upon request of the governor, the governor's designee, or the legislature. The articles shall also provide for a board of directors of the academy that includes distinguished scientists from the range of disciplines that may be called upon to

provide such services to the state and its political subdivisions, and provide a balance of representation from the academic, private, governmental, and research sectors.

(5) The articles shall provide for all such powers as may be appropriate or necessary to carry out the academy's purposes under this chapter, to the full extent allowable under the proposed organizational structure.

NEW SECTION. Sec. 4. (1) The academy shall investigate, examine, and report on any subject of science requested by the governor, the governor's designee, or the legislature. The procedures for selecting panels of experts to respond to such requests shall be set forth in the bylaws or other appropriate operating guidelines. In forming review panels, the academy shall endeavor to assure that the panel members have no conflicts of interest and that proposed panelists first disclose any advocacy positions or financial interest related to the questions to be addressed by the panel that the candidate has held within the past ten years.

(2) The governor shall provide funding to the academy for the actual expense of such investigation, examination, and reports. Such funding shall be in addition to state funding assistance to the academy in its initial years of operation as described in section 6 of this act.

NEW SECTION. Sec. 5. The academy may carry out functions or provide services to its members and the public in addition to the services provided under section 4 of this act, such as public education programs, newsletters, web sites, science fairs, and research assistance.

NEW SECTION. Sec. 6. The organizational committee shall recommend procedures and funding requirements for receiving and disbursing funding in support of the academy's programs and services in a report to the governor and the appropriate committees of the senate and house of representatives no later than April 30, 2007.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW."

Signed by Representatives Kenney, Chairman; Sells, Vice Chairman; Cox, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Buri; Fromhold; Hasegawa; Jarrett; Ormsby; Priest and Roberts.

MINORITY recommendation: Without recommendation.
Signed by Representatives Dunn

Passed to Committee on Appropriations.

March 31, 2005

SSB 5385 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Creating the Washington invasive species council. 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) 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 state 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; and

(f) The Washington state noxious weed control board, appointed by the board.

(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 biodiversity council, the state noxious weed control board, and other appropriate reports and activities.

(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) Research and public education;

(i) Funding and resources available for invasive species prevention, control, and management; and

(j) 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."

Correct the title.

Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Dickerson; Eickmeyer; Hunt; Orcutt and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives DeBolt

Passed to Committee on Appropriations.

March 29, 2005

SSB 5390 Prime Sponsor, Senate Committee on Health & Long-Term Care: Concerning improving the quality of care in state-purchased health care programs. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

On page 2, line 36, after "providers" insert "and facilities"

On page 2, line 37, after "develop" strike ", in collaboration with providers,"

On page 3, line 2, after "entities" strike "and providers" and insert ", providers, and facilities"

On page 3, line 6, after "entities" strike "and providers" and insert ", providers, and facilities"

On page 3, line 9, after "errors" strike ", while not imposing significant costs or administrative burden on insuring entities or providers"

On page 5, line 17, after "providers" insert "and facilities"

On page 5, line 18, after "develop" strike ", in collaboration with providers,"

On page 5, at the beginning of line 21, strike "and providers" and insert ", providers, and facilities"

On page 5, at the beginning of line 25, strike "and providers" and insert ", providers, and facilities"

On page 5, line 27, after "errors" strike ", while not imposing significant costs or administrative burden on insuring entities or providers"

On page 5, line 33, after "providers" insert "and facilities"

On page 5, line 34, after "develop" strike ", in collaboration with providers,"

On page 5, line 36, after "entities" strike "and providers" and insert ", providers, and facilities"

On page 6, at the beginning of line 5, strike "and providers" and insert ", providers, and facilities"

On page 6, line 7, after "errors" strike ", while not imposing significant costs or administrative burden on insuring entities or providers"

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 Bailey, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander and Hinkle

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5395 Prime Sponsor, Senate Committee on Government Operations & Elections: Requiring voting devices to produce paper records. 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 29A.12 RCW to read as follows:

Beginning on January 1, 2006, all electronic voting devices must produce a paper record of each vote that may be accepted or rejected by the voter before finalizing his or her vote. This record may not be removed from the polling place, and must be human readable without an interface and machine readable for counting purposes. If the device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter. Rejected records must either be destroyed or marked in order to clearly identify the record as rejected.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.44 RCW to read as follows:

Paper records produced by electronic voting devices are subject to all the requirements of this chapter and chapter 29A.60 RCW for ballot handling, preservation, reconciliation, transit to the counting center, and storage. The paper records must be preserved in the same manner and for the same period of time as ballots.

NEW SECTION. Sec. 3. A new section is added to chapter 29A.60 RCW to read as follows:

(1) The electronic record produced and counted by electronic voting devices is the official record of each vote for election purposes. The paper record produced under section 1 of this act must be stored and maintained for use only in the following circumstances:

- (a) In the event of a manual recount;
- (b) By order of the county canvassing board;
- (c) By order of a court of competent jurisdiction; or
- (d) For use in the random audit of results described in section 5 of this act.

(2) When such paper record is used in any of the circumstances listed in subsection (1) of this section, it shall be the official record of the election.

NEW SECTION. Sec. 4. A new section is added to chapter 29A.44 RCW to read as follows:

A voter voting on an electronic voting device may not leave the device during the voting process, except to request assistance from the precinct election officers, until the voting process is completed.

NEW SECTION. Sec. 5. A new section is added to chapter 29A.60 RCW to read as follows:

Prior to certification of the election as required by RCW 29A.60.190, the county auditor shall conduct an audit of results of votes cast on the direct recording electronic voting devices used in the county. This audit must be conducted by randomly selecting by lot up to four percent of the direct recording electronic voting devices or one direct recording electronic voting device, whichever is greater, and, for each device, comparing the results recorded electronically with the results recorded on paper. For purposes of this audit, the results recorded on paper must be tabulated as follows: On one-fourth of the devices selected for audit, the paper records must be tabulated manually; on the remaining devices, the paper records may be tabulated by a mechanical device determined by the secretary of state to be capable of accurately reading the votes cast and printed thereon and qualified for use in the state under applicable state and federal laws. Three races or issues, randomly selected by lot, must be audited on each device. This audit procedure must be subject to observation by political party representatives if representatives have been appointed and are present at the time of the audit.

NEW SECTION. Sec. 6. A new section is added to chapter 29A.84 RCW to read as follows:

Anyone who, without authorization, removes from a polling place a paper record produced by an electronic voting device is guilty of a class C felony punishable under RCW 9A.20.021."

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 Appropriations.

March 31, 2005

ESSB 5396 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Expanding the criteria for habitat conservation programs. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79A.15.010 and 1990 1st ex.s. c 14 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Acquisition" means the purchase on a willing seller basis of fee or less than fee interests in real property. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Committee" means the interagency committee for outdoor recreation.

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(4) "Farmlands" means any land defined as "farm and agricultural land" in RCW 84.34.020(2).

(5) "Local agencies" means a city, county, town, federally recognized Indian tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

~~((5))~~ (6) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

~~((6))~~ (7) "Riparian habitat" means land adjacent to water bodies, as well as submerged land such as streambeds, which can provide functional habitat for salmonids and other fish and wildlife species. Riparian habitat includes, but is not limited to, shorelines and near-shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

(8) "Special needs populations" means physically restricted people or people of limited means.

~~((7))~~ (9) "State agencies" means the state parks and recreation commission, the department of natural resources, the department of general administration, and the department of fish and wildlife.

(10) "Trails" means public ways constructed for and open to pedestrians, equestrians, or bicyclists, or any combination thereof, other than a sidewalk constructed as a part of a city street or county road for exclusive use of pedestrians.

~~((8))~~ (11) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

~~((9))~~ (12) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams.

Sec. 2. RCW 79A.15.030 and 2000 c 11 s 66 are each amended to read as follows:

(1) Moneys appropriated for this chapter shall be divided ~~((equally between the habitat conservation and outdoor recreation accounts and shall be used exclusively for the purposes specified in this chapter))~~ as follows:

(a) Appropriations for a biennium of forty million dollars or less must be allocated equally between the habitat conservation account and the outdoor recreation account.

(b) If appropriations for a biennium total more than forty million dollars, the money must be allocated as follows: (i) Twenty million dollars to the habitat conservation account and twenty million dollars to the outdoor recreation account; (ii) any amount over forty million dollars up to fifty million dollars shall be allocated as follows: (A) Ten percent to the habitat conservation account; (B) ten percent to the outdoor recreation account; (C) forty percent to the riparian protection account; and (D) forty percent to the farmlands preservation account; and (iii) any amounts over fifty million dollars must be allocated as follows: (A) Thirty percent to the habitat

conservation account; (B) thirty percent to the outdoor recreation account; (C) thirty percent to the riparian protection account; and (D) ten percent to the farmlands preservation account.

(2) Except as otherwise provided in this act, moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(3) All moneys deposited in the habitat conservation ~~((and))~~, outdoor recreation, riparian protection, and farmlands preservation accounts shall be allocated as provided under RCW 79A.15.040 ~~((and))~~, 79A.15.050, and sections 6 and 7 of this act as grants to state or local agencies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The committee may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter. Moneys appropriated to these accounts that are not obligated to a specific project may be used to fund projects from lists of alternate projects from the same account in biennia succeeding the biennium in which the moneys were originally appropriated.

(4) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public ~~((on a nondiscriminatory basis))~~.

(5) The committee may make grants to an eligible project from ~~((both))~~ the habitat conservation ~~((and))~~, outdoor recreation, riparian protection, and farmlands preservation accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040 ~~((and))~~, 79A.15.050, and sections 6 and 7 of this act.

(6) The committee may accept private donations to the habitat conservation account, the outdoor recreation account, the riparian protection account, and the farmlands preservation account for the purposes specified in this chapter.

(7) The committee may apply up to three percent of the funds appropriated for this chapter for the administration of the programs and purposes specified in this chapter.

(8) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the committee, be converted to a use other than that for which funds were originally approved. The committee shall adopt rules and procedures governing the approval of such a conversion.

Sec. 3. RCW 79A.15.040 and 1999 c 379 s 917 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than ~~((thirty-five))~~ forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than ~~((twenty))~~ thirty percent for the acquisition and development of natural areas;

(c) Not less than ~~((fifteen))~~ twenty percent for the acquisition and development of urban wildlife habitat; and

(d) ~~((The remaining amount shall be considered unallocated and))~~ Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the committee to fund ~~((high priority acquisition and development needs for critical habitat, natural areas, and urban wildlife habitat. During the fiscal biennium ending June 30, 2001, the remaining amount reappropriated from the fiscal biennium ending June 30, 1999, may be allocated for matching grants for riparian zone habitat protection projects that implement watershed plans under the program established in section 329(6), chapter 235, Laws of 1997))~~ restoration and enhancement

projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2)(a) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsection (1) of this section in any biennium, the committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only state agencies may apply for acquisition and development funds for ~~((critical habitat and))~~ natural areas projects under subsection (1)~~((a);)~~ (b)~~((, and (d)))~~ of this section.

(4) State and local agencies may apply for acquisition and development funds for critical habitat and urban wildlife habitat projects under subsection (1)(a) and (c) ~~((and (d)))~~ of this section.

(5)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of sections 11 and 12 of this act.

Sec. 4. RCW 79A.15.050 and 2003 c 184 s 1 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than ~~((twenty-five))~~ thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least ~~((seventy-five))~~ fifty percent of ~~((this))~~ the money for acquisition costs ~~((-- However, between July 27, 2003, and June 30, 2009, at least fifty percent of this money for the acquisition and development of state parks must be used for acquisition costs))~~;

(b) Not less than ~~((twenty-five))~~ thirty percent for the acquisition, development, and renovation of local parks, with at least fifty percent of this money for acquisition costs;

(c) Not less than ~~((fifteen))~~ twenty percent for the acquisition ~~((and)),~~ renovation, or development of trails;

(d) Not less than ~~((ten))~~ fifteen percent for the acquisition ~~((and)),~~ renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) ((The remaining amount shall be considered unallocated and shall be distributed by the committee to state and local agencies to fund high priority acquisition and development needs for parks, trails, and water access sites)) Not less than five percent for development and renovation projects on state recreation lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on their existing recreation lands.

(2)(a) In distributing these funds, the committee retains discretion to meet the most pressing needs for state and local parks, trails, and water access sites, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the outdoor recreation account to meet the percentages described in subsection (1) of this section in any biennium, the

committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsection (1)(b) of this section.

(4) Only state and local agencies may apply for funds for trails under subsection (1)(c) of this section.

(5) Only state and local agencies may apply for funds for water access sites under subsection (1)(d) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 79A.15 RCW to read as follows:

A state or local agency shall review the proposed project application with the county or city with jurisdiction over the project area prior to applying for funds for the acquisition of property under this chapter. The appropriate county or city legislative authority may, at its discretion, submit a letter to the committee identifying the authority's position with regard to the acquisition project. The committee shall make the letters received under this section available to the governor and the legislature when the prioritized project list is submitted under section 6 of this act, RCW 79A.15.060, and 79A.15.070.

NEW SECTION. Sec. 6. A new section is added to chapter 79A.15 RCW to read as follows:

(1) The riparian protection account is established in the state treasury. The committee must administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate and apart from all other money, funds, and accounts of the committee.

(2) Moneys appropriated for this chapter to the riparian protection account must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under subsection (10)(a) of this section, must include the acquisition of a real property interest in order to be eligible.

(3) State and local agencies and lead entities under chapter 77.85 RCW may apply for acquisition and enhancement or restoration funds for riparian habitat projects under subsection (1) of this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into interagency agreements with state agencies to apply in partnership for funds under this section.

(4) The committee may adopt rules establishing acquisition policies and priorities for distributions from the riparian protection account.

(5) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the committee to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(6) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(7) Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of riparian habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (8) of this section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where riparian habitat is

restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.

(8) The committee may not approve a local project where the local agency share is less than the amount to be awarded from the riparian protection account. In-kind contributions, including contributions of a real property interest in land may be used to satisfy the local agency's share.

(9) State agencies receiving grants for acquisition of land under this section must pay an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. In counties having less than thirty percent of land in private ownership, the amount in lieu of real property taxes must be based on one hundred percent of the property's true and fair value under chapter 84.40 RCW except taxes levied for any state purpose. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due.

(10) In determining acquisition priorities with respect to the riparian protection account, the committee must consider, at a minimum, the following criteria:

(a) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled in the conservation reserve enhancement program shall be eligible. Such applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(b) Whether the projects are identified or recommended in a watershed planning process under chapter 247, Laws of 1998, salmon recovery planning under chapter 77.85 RCW, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(c) Whether there is community support for the project;

(d) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(e) Whether there is an immediate threat to the site;

(f) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for restoring quality habitat including linkage of the site to other high quality habitat;

(g) Whether the project is consistent with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(h) Whether the site has educational or scientific value; and

(i) Whether the site has passive recreational values for walking trails, wildlife viewing, or the observation of natural settings.

(11) Before November 1st of each even-numbered year, the committee will recommend to the governor a prioritized list of projects to be funded under this section. The governor may remove projects from the list recommended by the committee and will submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement.

NEW SECTION. Sec. 7. A new section is added to chapter 79A.15 RCW to read as follows:

(1) The farmlands preservation account is established in the state treasury. The committee will administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate and apart from all other money, funds, and accounts of the committee. Moneys appropriated for this chapter to the farmlands preservation account must be distributed for the acquisition and preservation of farmlands in order to maintain the opportunity for agricultural activity upon these lands.

(2)(a) Moneys appropriated for this chapter to the farmlands preservation account may be distributed for (i) the fee simple or less than fee simple acquisition of farmlands; (ii) the enhancement or restoration of ecological functions on those properties; or (iii) both. In order for a farmland preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.

(b) If a city or county acquires a property through this program in fee simple, the city or county shall endeavor to secure preservation of the property through placing a conservation easement, or other form of deed restriction, on the property which dedicates the land to agricultural use and retains one or more property rights in perpetuity. Once an easement or other form of deed restriction is placed on the property, the city or county shall seek to sell the property, at fair market value, to a person or persons who will maintain the property in agricultural production. Any moneys from the sale of the property shall either be used to purchase interests in additional properties which meet the criteria in subsection (9) of this section, or to repay the grant from the state which was originally used to purchase the property.

(3) Cities and counties may apply for acquisition and enhancement or restoration funds for farmland preservation projects within their jurisdictions under subsection (1) of this section.

(4) The committee may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the farmlands preservation account.

(5) The acquisition of a property right in a project under this section by a county or city does not provide a right of access to the property by the public unless explicitly provided for in a conservation easement or other form of deed restriction.

(6) Except as provided in RCW 79A.15.030(7), moneys appropriated for this section may not be used by the committee to fund staff positions or other overhead expenses, or by a city or county to fund operation or maintenance of areas acquired under this chapter.

(7) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(8) The committee may not approve a local project where the local agency's share is less than the amount to be awarded from the farmlands preservation account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's share.

(9) In determining the acquisition priorities, the committee must consider, at a minimum, the following criteria:

(a) Community support for the project;

(b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;

(c) The likelihood of the conversion of the site to nonagricultural or more highly developed usage;

(d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(e) Benefits to salmonids;

(f) Benefits to other fish and wildlife habitat;

(g) Integration with recovery efforts for endangered, threatened, or sensitive species;

(h) The viability of the site for continued agricultural production, including, but not limited to:

(i) Soil types;

(ii) On-site production and support facilities such as barns, irrigation systems, crop processing and storage facilities, wells, housing, livestock sheds, and other farming infrastructure;

(iii) Suitability for producing different types or varieties of crops;

(iv) Farm-to-market access;

(v) Water availability; and

(i) Other community values provided by the property when used as agricultural land, including, but not limited to:

(i) Viewshed;

(ii) Aquifer recharge;

(iii) Occasional or periodic collector for storm water runoff;

(iv) Agricultural sector job creation;

(v) Migratory bird habitat and forage area; and

(vi) Educational and curriculum potential.

(10) In allotting funds for environmental enhancement or restoration projects, the committee will require the projects to meet the following criteria:

(a) Enhancement or restoration projects must further the ecological functions of the farmlands;

(b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, clearing of waterways, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;

(c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results; and

(d) The projects should enhance the viability of the preserved farmland to provide agricultural production while conforming to any legal requirements for habitat protection.

(11) Before November 1st of each even-numbered year, the committee will recommend to the governor a prioritized list of all projects to be funded under this section. The governor may remove projects from the list recommended by the committee and must submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement.

Sec. 8. RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read as follows:

(1) The committee may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Except as provided in RCW 79A.15.030(7), moneys appropriated for this chapter may not be used by the committee to fund ~~((additional))~~ staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation ~~((and))~~ or maintenance of areas acquired under this chapter~~((except that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 2001, for the administrative costs of implementing the pilot watershed plan implementation program~~

~~established in section 329(6), chapter 235, Laws of 1997, and developing an inventory of publicly owned lands established in section 329(7), chapter 235, Laws of 1997).~~

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) ~~((Except as provided in subsection (5) of this section,))~~ Moneys appropriated for this section may be used to fund mitigation banking projects involving the restoration, creation, enhancement, or preservation of critical habitat and urban wildlife habitat, provided that the parties seeking to use the mitigation bank meet the matching requirements of subsection (5) of this section. The moneys from this section may not be used to supplant an obligation of a state or local agency to provide mitigation. For the purposes of this section, a mitigation bank means a site or sites where critical habitat or urban wildlife habitat is restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized project impacts to similar resources.

~~(5) The committee may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.~~

~~((5) During the fiscal biennium ending June 30, 2001, the committee may approve a riparian zone habitat protection project established in section 329(6), chapter 235, Laws of 1997, where the local agency share is less than the amount to be awarded from the habitat conservation account.))~~

(6) In determining acquisition priorities with respect to the habitat conservation account, the committee shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Community support for the project;

(ii) The project proposal's ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(iii) Recommendations as part of a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort, and for projects primarily intended to benefit salmon, limiting factors, or critical pathways analysis;

~~(iv) Immediacy of threat to the site;~~

~~((iii)) (v) Uniqueness of the site;~~

~~((iv)) (vi) Diversity of species using the site;~~

~~((v)) (vii) Quality of the habitat;~~

~~((vi)) (viii) Long-term viability of the site;~~

~~((vii)) (ix) Presence of endangered, threatened, or sensitive species;~~

~~((viii)) (x) Enhancement of existing public property;~~

~~((ix)) (xi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130; ~~((and~~~~

~~(x)) (xii) Educational and scientific value of the site;~~

(xiii) Integration with recovery efforts for endangered, threatened, or sensitive species;

(xiv) For critical habitat proposals by local agencies, the statewide significance of the site.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

(i) Population of, and distance from, the nearest urban area;

(ii) Proximity to other wildlife habitat;

- (iii) Potential for public use; and
- (iv) Potential for use by special needs populations.

~~(7) ((Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

~~—(8)) Before ((October)) November 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of all state agency and local projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

Sec. 9. RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read as follows:

(1) In determining which state parks proposals and local parks proposals to fund, the committee shall use existing policies and priorities.

(2) ~~Except as provided in RCW 79A.15.030(7), moneys appropriated for this chapter may not be used by the committee to fund ((additional)) staff or other overhead expenses, or by a state, regional, or local agency to fund operation ((and)) or maintenance of areas acquired under this chapter((, except that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 2001, for the administrative costs of implementing the pilot watershed plan implementation program established in section 329(6), chapter 235, Laws of 1997, and developing an inventory of publicly owned lands established in section 329(7), chapter 235, Laws of 1997)).~~

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition and development, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account.

(5) The committee may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the committee shall consider, at a minimum, the following criteria:

- (a) For trails proposals:
 - (i) Community support for the project;
 - (ii) Immediacy of threat to the site;
 - (iii) Linkage between communities;
 - (iv) Linkage between trails;
 - (v) Existing or potential usage;
 - (vi) Consistency with ~~((an existing))~~ a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

- (vii) Availability of water access or views;
- (viii) Enhancement of wildlife habitat; and
- (ix) Scenic values of the site.
- (b) For water access proposals:
 - (i) Community support for the project;
 - (ii) Distance from similar water access opportunities;
 - (iii) Immediacy of threat to the site;
 - (iv) Diversity of possible recreational uses; ~~((and))~~
 - (v) Public demand in the area; and
 - (vi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130.

~~(7) ((Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 79A.15.050(1) (a), (c), and (d). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

~~—(8)) Before ((October)) November 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of all state agency and local projects to be funded under RCW 79A.15.050(1) (a), (b), (c), and (d). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.~~

Sec. 10. RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each amended to read as follows:

The committee shall not sign contracts or otherwise financially obligate funds from the habitat conservation account ~~((or))~~ the outdoor recreation account, the riparian protection account, or the farmlands preservation account as provided in this chapter before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the governor.

NEW SECTION. Sec. 11. A new section is added to chapter 79.70 RCW to read as follows:

The state treasurer, on behalf of the department, must distribute to counties for all lands acquired for the purposes of this chapter an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned. In counties having less than thirty percent of land in private ownership, the amount in lieu of real property taxes must be based on one hundred percent of the property's true and fair value under chapter 84.40 RCW except taxes levied for any state purpose. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due. The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local

property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

NEW SECTION. Sec. 12. A new section is added to chapter 79.71 RCW to read as follows:

The state treasurer, on behalf of the department, must distribute to counties for all lands acquired for the purposes of this chapter an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount equal to the amount of weed control assessment that would be due if such lands were privately owned. In counties having less than thirty percent of land in private ownership, the amount in lieu of real property taxes must be based on one hundred percent of the property's true and fair value under chapter 84.40 RCW except taxes levied for any state purpose. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due. The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

Sec. 13. RCW 84.33.140 and 2003 c 170 s 5 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation shall be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor shall list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor shall compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land shall be as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
1	1	\$234
	2	229
	3	217
	4	157
2	1	198
	2	190
	3	183
	4	132
3	1	154
	2	149
	3	148
	4	113
4	1	117
	2	114
	3	113
	4	86

5	1	85
	2	78
	3	77
	4	52
6	1	43
	2	39
	3	39
	4	37
7	1	21
	2	21
	3	20
	4	20
8	1	1
	2	1
	3	1
	4	1

(3) On or before December 31, 2001, the department shall adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and shall certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section shall be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(5) Land graded, assessed, and valued as forest land shall continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;
 (b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of designation. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new

owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land shall not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor shall have the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal shall apply only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal shall apply only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation shall immediately be made upon the assessment and tax rolls. The assessor shall revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation shall be listed. Taxes based on the value of the land as forest land shall be assessed and payable up until the date of removal and taxes based on the true and fair value of the land shall be assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax shall be imposed on land removed from designation as forest land. The compensating tax shall be due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor shall compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax shall be equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, shall become a lien on the land which shall attach at the time the land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At

such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h); or

(i) The sale or transfer of land after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993 and the sale or transfer takes place after July 22, 2001, and on or before July 22, 2003, and the death of the owner occurred after January 1, 1991. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(i).

(14) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 14. RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each amended to read as follows:

(1) Notwithstanding RCW 84.36.010 or other statutes to the contrary, the director shall pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

(2) "Game lands," as used in this section and RCW 77.12.201, means those tracts one hundred acres or larger owned in fee by the department and used for wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access or recreation purposes with federal funds in the Snake River drainage basin shall be considered game lands regardless of acreage.

(3) This section shall not apply to lands transferred after April 23, 1990, to the department from other state agencies.

(4) The county shall distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county shall distribute the amount received under this section for weed control to the appropriate weed district.

NEW SECTION. Sec. 15. (1) The interagency committee for outdoor recreation may apply up to three percent of the funds appropriated for chapter 79A.15 RCW for the administration of the programs and purposes specified in chapter 79A.15 RCW.

(2) Habitat and recreation land and facilities acquired or developed with moneys appropriated for chapter 79A.15 RCW may not, without prior approval of the interagency committee for outdoor recreation, be converted to a use other than that for which funds were originally approved. The interagency committee for outdoor recreation shall adopt rules and procedures governing the approval of such a conversion.

(3) This section expires July 1, 2007.

NEW SECTION. Sec. 16. Sections 1 through 14 of this act take effect July 1, 2007.

NEW SECTION. Sec. 17. Section 15 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 July 1, 2005."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 79A.15.010, 79A.15.030, 79A.15.040, 79A.15.050, 79A.15.060, 79A.15.070, 79A.15.080, 84.33.140, and 77.12.203; adding new sections to chapter 79A.15 RCW; adding a new section to chapter 79.70 RCW; adding a new section to chapter 79.71 RCW; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency."

Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Eickmeyer; Ericks; Ericksen; Flannigan; Green; Hasegawa; Lantz; Moeller; Morrell; Schual-Berke; Springer; Strow and Uptegrove.

MINORITY recommendation: Do not pass. Signed by Representatives Cox; DeBolt; Holmquist; Kretz; Kristiansen; McCune; Newhouse; Roach and Serben

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5414 Prime Sponsor, Senate Committee on Transportation: Adjusting aviation fees and taxes. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

On page 5, line 5, after "airline," insert "air cargo carrier."

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

MINORITY recommendation: Do not pass. Signed by Representatives Curtis

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5415 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Making loans under chapter 31.45 RCW to military borrowers. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

Beginning on page 1, line 17, strike all of subsection (e) and insert the following:

"(e) Not make a loan from a specific location to a person that the licensee knows is a military borrower when the military borrower's commander has notified the licensee in writing that the specific location is designated off-limits to military personnel under their command."

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.

March 31, 2005

ESB 5418 Prime Sponsor, Senator Berkey: Allowing consumers to place a security freeze on a credit report. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 19.182 RCW to read as follows:

(1) A victim of identity theft who has submitted a valid police report to a consumer reporting agency may elect to place a security freeze on his or her report by making a request in writing by certified mail to a consumer reporting agency. "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit

report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) For purposes of this section and sections 2 through 5 of this act, a "victim of identity theft" means:

(a) A victim of identity theft as defined in RCW 9.35.020; or

(b) A person who has been notified by an agency, person, or business that owns or licenses computerized data of a breach in a computerized data system which has resulted in the acquisition of that person's unencrypted personal information by an unauthorized person or entity.

(3) A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer.

(4) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit report for a specific party or period of time.

(5) If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(a) Proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to sufficiently identify himself or herself, may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his or her identity;

(b) The unique personal identification number or password provided by the credit reporting agency under subsection (4) of this section; and

(c) The proper information regarding the third party who is to receive the credit report or the time period for which the report is available to users of the credit report.

(6) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section, shall comply with the request no later than three business days after receiving the request.

(7) A consumer reporting agency may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report under subsection (5) of this section in an expedited manner.

(8) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(a) Upon consumer request, under subsection (5) or (11) of this section; or

(b) When the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to remove a freeze upon a consumer's credit report under this subsection, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(9) When a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in

connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(10) When a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while the freeze is in place.

(11) A security freeze remains in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides both of the following:

(a) Proper identification, as defined in subsection (5)(a) of this section; and

(b) The unique personal identification number or password provided by the consumer reporting agency under subsection (4) of this section.

(12) This section does not apply to the use of a consumer credit report by any of the following:

(a) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this subsection, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for purposes of facilitating the extension of credit or other permissible use;

(c) Any federal, state, or local entity, including a law enforcement agency, court, or their agents or assigns;

(d) A private collection agency acting under a court order, warrant, or subpoena;

(e) A child support agency acting under Title IV-D of the social security act (42 U.S.C. et seq.);

(f) The department of social and health services acting to fulfill any of its statutory responsibilities;

(g) The internal revenue service acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

(h) The use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;

(i) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; and

(j) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

NEW SECTION. Sec. 2. A new section is added to chapter 19.182 RCW to read as follows:

If a security freeze is in place, a consumer reporting agency may not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the

consumer's file: Name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

NEW SECTION. Sec. 3. A new section is added to chapter 19.182 RCW to read as follows:

A consumer reporting agency is not required to place a security freeze in a consumer credit report under section 1 of this act if it acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer reporting agency must honor any security freeze placed on a consumer credit report by another consumer reporting agency.

NEW SECTION. Sec. 4. A new section is added to chapter 19.182 RCW to read as follows:

The following entities are not required to place a security freeze in a consumer credit report under section 1 of this act:

(1) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; and

(2) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

NEW SECTION. Sec. 5. A new section is added to chapter 19.182 RCW to read as follows:

A consumer reporting agency may furnish to a governmental agency a consumer's name, address, former address, places of employment, or former places of employment."

Correct the title.

Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Roach, Ranking Minority Member; O'Brien; Santos; Simpson and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Tom, Assistant Ranking Minority Member; Newhouse; Serben and Strow

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5423 Prime Sponsor, Senator Haugen: Authorizing creation of thematic collections of special plates. (REVISED FOR ENGROSSED: Regulating special license plates.) Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

(1) The following special license plate series created by the legislature may be personalized: (a) RCW 46.16.301 as currently law; (b) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997; (c) RCW 46.16.305, except those plates issued under RCW 46.16.305(1) and (2); (d) RCW 46.16.324; (e) RCW 46.16.385; or (f) RCW 46.16.745.

(2) Personalized special plates issued under this section may be personalized only by using numbers or letters, or any combination thereof not exceeding seven positions, and not less than one position, to the extent that there are no conflicts with existing license plate series. A personalized special license plate is subject to the same requirements as personalized license plates listed in RCW 46.16.575, 46.16.580, 46.16.590, 46.16.595, and 46.16.600.

(3) In addition to any other fees and taxes due at the time of registration, applicants for a personalized special license plate must pay both the fees to purchase and renew a special plate as set out in the statute creating the special plate and the personalized plate as required in RCW 46.16.585 and 46.16.606. The special plate fee must be distributed in accordance with the requirements set out in the statute creating the special plate. The personalized plate fee must be distributed under RCW 46.16.605 and 46.16.606. The transfer of personalized special plates is to be administered under RCW 46.16.316.

Sec. 2. RCW 46.16.316 and 2004 c 223 s 4, 2004 c 221 s 5, 2004 c 48 s 5, and 2004 c 35 s 5 are each reenacted and amended to read as follows:

Except as provided in RCW 46.16.305:

(1) When a person who has been issued a special license plate or plates: (a) Under RCW 46.16.30901, 46.16.30903, 46.16.30905, or 46.16.301 as it existed before amendment by section 5, chapter 291, Laws of 1997, or under RCW 46.16.305(2) or 46.16.324; ~~((or))~~ (b) approved by the special license plate review board under RCW 46.16.715 through 46.16.775; or (c) under section 1 of this act sells, trades, or otherwise transfers or releases ownership of the vehicle upon which the special license plate or plates have been displayed, he or she shall immediately report the transfer of such plate or plates to an acquired vehicle or vehicle eligible for such plates pursuant to departmental rule, or he or she shall surrender such plates to the department immediately if such surrender is required by departmental rule. If a person applies for a transfer of the plate or plates to another eligible vehicle, a transfer fee of ten dollars shall be charged in addition to all other applicable fees. Such transfer fees shall be deposited in the motor vehicle fund. Failure to surrender the plates when required is a traffic infraction.

(2) If the special license plate or plates issued by the department become lost, defaced, damaged, or destroyed, application for a replacement special license plate or plates shall be made and fees paid as provided by law for the replacement of regular license plates.

Sec. 3. RCW 46.16.385 and 2004 c 222 s 1 are each amended to read as follows:

(1) The department shall design and issue disabled parking emblem versions of special license plates issued under (a) RCW 46.16.301; (b) RCW 46.16.305, except those plates issued under

RCW 46.16.305 (1) and (2); (c) RCW 46.16.324; (d) RCW 46.16.745; (e) RCW 73.04.110; (f) RCW 73.04.115; ~~((or))~~ (g) RCW 46.16.301(1) (a), (b), or (c), as it existed before amendment by section 5, chapter 291, Laws of 1997; (h) RCW 46.16.565; or (i) plates issued under section 1 of this act. The disabled parking emblem version of the special plate must display the universal symbol of access that may be used in lieu of the parking placard issued to persons who qualify for special parking privileges under RCW 46.16.381. The department may not charge an additional fee for the issuance of the special disabled parking emblem license plate, except the regular motor vehicle registration fee, the fee associated with the particular special plate, and any other fees and taxes required to be paid upon registration of a motor vehicle. The emblem must be incorporated into the design of the special license plate in a manner to be determined by the department, and under existing vehicular licensing procedures and existing laws.

(2) Persons who qualify for special parking privileges under RCW 46.16.381, and who have applied and paid the appropriate fee for any of the special license plates listed in subsection (1) of this section, are entitled to receive from the department a special disabled parking emblem license plate. The special disabled parking emblem license plate may be used for one vehicle registered in the disabled person's name. Persons who have been issued the parking privileges or who are using a vehicle displaying the special disabled parking emblem license plate may park in places reserved for mobility disabled persons.

(3) The special disabled parking emblem license plate must be administered in the same manner as the plates issued under RCW 46.16.381.

(4) The department shall adopt rules to implement this section.

Sec. 4. RCW 46.16.570 and 1986 c 108 s 1 are each amended to read as follows:

Except for personalized plates issued under section 1 of this act, the personalized license plates shall be the same design as regular license plates, and shall consist of numbers or letters, or any combination thereof not exceeding seven positions unless proposed by the department and approved by the Washington state patrol and not less than one position, to the extent that there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with the provisions of RCW 46.16.230 or 46.16.235: PROVIDED, That the maximum number of positions on personalized license plates for motorcycles shall be designated by the department.

Sec. 5. RCW 46.16.600 and 1979 c 158 s 143 are each amended to read as follows:

(1) The director of licensing may establish such rules and regulations as may be necessary to carry out the purposes of RCW 46.16.560 through 46.16.595.

(2) Upon direction by the board, the department shall adopt a rule limiting the ability of organizations and governmental entities to apply for more than one license plate series.

Sec. 6. RCW 46.16.690 and 2003 c 361 s 502 are each amended to read as follows:

The department shall offer license plate design services to organizations that are sponsoring a new special license plate series or are seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new plate design and must

provide full design services to the organization. The department shall collect from the requesting organization a fee of ~~((one thousand five))~~ two hundred dollars for providing license plate design services. This fee includes one original license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of ~~((five))~~ one hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account.

Sec. 7. RCW 46.16.725 and 2003 c 196 s 103 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the legislative transportation committee;

(b) Report annually to the legislative transportation committee on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees;

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for.

(4) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until June 1, 2007. During this period of time, the special license plate review board created in RCW 46.16.705 and the department of licensing are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

Sec. 8. RCW 46.16.745 and 2003 c 196 s 301 are each amended to read as follows:

(1) A sponsoring organization meeting the requirements of RCW 46.16.735, applying for the creation of a special license plate to the special license plate review board must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section. ~~((If the sponsoring organization cannot meet the payment requirements of subsection (2) of this section, then the organization must meet the requirements of subsection (3) of this section.))~~

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special license plate applicant trust account created under RCW 46.16.755~~((3))~~ (4);

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for ~~((the))~~ each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate; ~~((and))~~

(e) Provide proof of organizational qualifications as determined by the department as provided for in RCW 46.16.735;

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

~~((If the sponsoring organization is not able to meet the payment requirements of subsection (2)(a) of this section and can demonstrate this fact to the satisfaction of the department, the sponsoring organization shall:~~

~~(a) Submit an application and nonrefundable fee of two thousand dollars, for deposit in the motor vehicle account, to the department;~~

~~(b) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of two thousand intended purchases of the special license plate;~~

~~(c) Provide a proposed license plate design;~~

~~(d) Provide a marketing strategy outlining short and long-term marketing plans for the special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;~~

~~(e) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate; and~~

~~(f) Provide proof of organizational qualifications as determined by the department as provided in RCW 46.16.735.~~

~~((3))~~ After an application is approved by the special license plate review board, the application need not be reviewed again by the board for a period of three years.

NEW SECTION. Sec. 9. Section 1 of this act takes effect March 1, 2007."

On page 1, line 1 of the title, after "plates," strike the remainder of the title and insert "amending RCW 46.16.385, 46.16.570, 46.16.600, 46.16.690, 46.16.725, and 46.16.745; reenacting and amending RCW 46.16.316; adding a new section to chapter 46.16 RCW; and providing an effective date."

Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Appleton; Buck; Campbell; Curtis; Dickerson; Flannigan; Hankins; Hudgins; Kilmer; Lovick; Morris; Sells; Simpson; B. Sullivan; Takko; Uptegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Ericksen; Jarrett; Nixon; Rodne; Schindler and Shabro

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5432 Prime Sponsor, Senate Committee on Water, Energy & Environment: Creating the citizens' oil spill advisory council. (REVISED FOR ENGROSSED: Creating the oil spill advisory council.) 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 implementing the 2004 oil spill early action task force recommendations to increase opportunities for the public to participate in the oil spill process will lead to improvements to the state's oil spill program.

NEW SECTION. Sec. 2. A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) There is established in the office of the governor the oil spill advisory council.

(b) The primary purpose of the council is to maintain the state's vigilance in, by ensuring an emphasis on, the prevention of oil spills to marine waters, while recognizing the importance of also improving preparedness and response.

(c) The council shall be an advisory body only.

(2)(a) The council is composed of fifteen members representing various interests as follows:

(i) Three representatives of environmental organizations;

(ii) One representative of commercial shellfish interests;

(iii) One representative of commercial fisheries that primarily fishes in Washington waters;

(iv) One representative of marine recreation;

(v) One representative of tourism interests;

(vi) Three representatives of county government from counties bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait of Juan de Fuca/San Juan Islands;

(vii) Two representatives of marine trade interests;

(viii) One representative of major oil facilities;

(ix) One representative of public ports; and

(x) An individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

(b) In addition to the members identified in this subsection, the governor shall invite the participation of tribal governments through the appointment of two representatives to the council.

(3) Appointments to the council shall reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills to state waters.

(4) Members shall be appointed by the governor and shall serve four-year terms, except the initial members appointed to the council. Initial members to the council shall be appointed as follows: Five shall serve two-year terms, five shall serve three-year terms, and five

shall serve four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position vacated. Members serve at the pleasure of the governor.

(5) The council shall elect a chair from among its members in odd-numbered years to serve for two years as chair. The chair shall convene the council at least four times per year. At least one meeting per year shall be held in a Columbia river community, an ocean coastal community, and a Puget Sound community.

(6) Members shall not be compensated, but shall be reimbursed for travel expenses while attending meetings of the council or technical advisory committee as provided in RCW 43.03.050 and 43.03.060.

(7) The first meeting of the council shall be convened by the governor or the governor's designee. Other meetings may be convened by a vote of at least a majority of the voting members of the council, or by call of the chair. All meetings are subject to the open public meetings act. The council shall maintain minutes of all meetings.

(8) To the extent possible, all decisions of the council shall be by the consensus of the members. If consensus is not possible, nine voting members of the council may call for a vote on a matter. When a vote is called, all decisions shall be determined by a majority vote of the voting members present. Two-thirds of the voting members are required to be present for a quorum for all votes. The subject matter of all votes and the vote tallies shall be recorded in the minutes of the council.

(9) The council may form subcommittees and technical advisory committees.

NEW SECTION. Sec. 3. (1) It is the intent of the legislature to implement this act within existing resources allocated to the department of ecology's oil spill program and with moneys that may be appropriated to implement the recommendations from the oil spill early action task force.

(2) By December 15, 2006, the council shall report to the governor and appropriate committees of the legislature recommendations for:

(a) The long-term funding of the council's activities; and

(b) The appropriate agency in which to locate the council."

Correct the title.

Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Buck, Ranking Minority Member; Blake; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Appropriations.

March 31, 2005

SSB 5449 Prime Sponsor, Senate Committee on Water, Energy & Environment: Providing lien authority to the department of ecology to facilitate the recovery of remedial action costs under the model toxics control act. 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 70.105D RCW to read as follows:

(1) It is in the public interest for the department to recover remedial action costs incurred in discharging its responsibility under this chapter, as these recovered funds can then be applied to the cleanup of other facilities. Thus, in addition to other cost-recovery mechanisms provided under this chapter, this section is intended to facilitate the recovery of state funds spent on remedial actions by providing the department with lien authority. This will also prevent a facility owner or mortgagee from gaining a financial windfall from increased land value resulting from department-conducted remedial actions at the expense of the state taxpayers.

(2) If the state of Washington incurs remedial action costs relating to a remedial action of real property, and those remedial action costs are unrecovered by the state of Washington, the department may file a lien against that real property.

(a) Except as provided in (c) of this subsection, liens filed under this section shall have priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded, except for the following liens:

(i) Local and special district property tax assessments; and

(ii) Mortgage liens recorded before liens or notices of intent to conduct remedial actions are recorded under this section.

(b) Liens filed pursuant to (a) and (c) of this subsection shall not exceed the remedial action costs incurred by the state.

(c)(i) If the real property for which the department has incurred remedial action costs is abandoned, the department may choose to limit the amount of the lien to the increase in the fair market value of the real property that is attributable to a remedial action conducted by the department. The increase in fair market value shall be determined by subtracting the county assessor's value of the real property for the most recent year prior to remedial action being initiated from the value of the real property after remedial action. The value of the real property after remedial action shall be determined by the bona fide purchase price of the real property or by a real estate appraiser retained by the department. Liens limited in this way have priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded.

(ii) For the purposes of this subsection, "abandoned" means there has not been significant business activity on the real property for three years or property taxes owed on the real property are three years in arrears prior to the department incurring costs attributable to this lien.

(d) The department shall, when notifying potentially liable persons of their potential liability under RCW 70.105D.040, include a notice stating that if the department incurs remedial action costs relating to the remediation of real property and the costs are not recovered by the department, the department may file a lien against that real property under this section.

(e) Except for emergency remedial actions, the department must provide notice to the following persons before initiating remedial

actions conducted by persons under contract to the department on real property on which a lien may be filed under this section:

(i) The real property owner;

(ii) Mortgagees;

(iii) Lienholders of record;

(iv) Persons known to the department to be conducting remedial actions at the facility at the time of such notice; and

(v) Persons known to the department to be under contract to conduct remedial actions at the facility at the time of such notice.

For emergency remedial actions, this notice shall be provided within thirty days after initiation of the emergency remedial actions.

(f) The department may record a copy of the notice in (e) of this subsection, along with a legal description of the property on which the remedial action will take place, with the county auditor in the county where the real property is located. If the department subsequently files a lien, the effective date of the lien will be the date this notice was recorded.

(3) Before filing a lien under this section, the department shall give the owner of real property on which the lien is to be filed and mortgagees and lienholders of record a notice of its intent to file a lien:

(a) The notice required under this subsection (3) must be sent by certified mail to the real property owner and mortgagees of record at the addresses listed in the recorded documents. If the real property owner is unknown or if a mailed notice is returned as undeliverable, the department shall provide notice by posting a legal notice in the newspaper of largest circulation in the county the site is located. The notice shall provide:

(i) A statement of the purpose of the lien;

(ii) A brief description of the real property to be affected by the lien;

(iii) A statement of the remedial action costs incurred by the state related to the real property affected by the lien;

(iv) A brief statement of facts showing probable cause that the real property is the subject of the remedial action costs incurred by the department; and

(v) The time period following service or other notice during which any recipient of the notice whose legal rights may be affected by the lien may comment on the notice.

(b) Any comments on the notice must be received by the department on or before thirty days following service or other provision of the notice of intent to file a lien.

(c) If no comments are received by the department, the lien may be filed on the real property immediately.

(d) If the department receives any comments on the lien, the department shall determine if there is probable cause for filing the certificate of lien. If the department determines there is probable cause, the department may file the lien. Any further challenge to the lien may only occur at the times specified under RCW 70.105D.060.

(e) If the department has reason to believe that exigent circumstances require the filing of a lien prior to giving notice under this subsection (3), or prior to the expiration of the time period for comments, the department may file the lien immediately. For the purposes of this subsection (3), exigent circumstances include, but are not limited to, an imminent bankruptcy filing by the real property owner, or the imminent transfer or sale of the real property subject to lien by the real property owner, or both.

(4) A lien filed under this section is effective when a statement of lien is filed with the county auditor in the county where the real property is located. The statement of lien must include a description of the real property subject to lien and the amount of the lien.

(5) Unless the department determines it is in the public interest to remove the lien, the lien continues until the liability for the remedial action costs have been satisfied through sale of the real property, foreclosure, or other means agreed to by the department. Any action for foreclosure of the lien shall be brought by the attorney general in a civil action in the court having jurisdiction and in the manner prescribed for the judicial foreclosure of a mortgage.

(6)(a) This section does not apply to real property owned by a local government or special purpose district or real property used solely for residential purposes and consisting of four residential units or less at the time the lien is recorded. This limitation does not apply to illegal drug manufacturing and storage sites under chapter 64.44 RCW.

(b) If the real property owner has consented to the department filing a lien on the real property, then only subsection (3)(a)(i) through (iii) of this section requiring notice to mortgagees and lienholders of record apply.

Sec. 2. RCW 70.105D.050 and 2002 c 288 s 4 are each amended to read as follows:

(1) With respect to any release, or threatened release, for which the department does not conduct or contract for conducting remedial action and for which the department believes remedial action is in the public interest, the director shall issue orders or agreed orders requiring potentially liable persons to provide the remedial action. Any liable person who refuses, without sufficient cause, to comply with an order or agreed order of the director is liable in an action brought by the attorney general for:

(a) Up to three times the amount of any costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to twenty-five thousand dollars for each day the party refuses to comply.

The treble damages and civil penalty under this subsection apply to all recovery actions filed on or after March 1, 1989.

(2) Any person who incurs costs complying with an order issued under subsection (1) of this section may petition the department for reimbursement of those costs. If the department refuses to grant reimbursement, the person may within thirty days thereafter file suit and recover costs by proving that he or she was not a liable person under RCW 70.105D.040 and that the costs incurred were reasonable.

(3) The attorney general shall seek, by filing an action if necessary, to recover the amounts spent by the department for investigative and remedial actions and orders, and agreed orders, including amounts spent prior to March 1, 1989.

(4) The attorney general may bring an action to secure such relief as is necessary to protect human health and the environment under this chapter.

(5)(a) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment exists. The court may award attorneys' fees and other costs to the prevailing party in the action.

(b) Civil actions under this section and RCW 70.105D.060 may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Any person who fails to provide notification of releases consistent with RCW 70.105D.110 or who submits false information is liable in an action brought by the attorney general for a civil penalty of up to five thousand dollars per day for each day the party refuses to comply.

(7) Any person who owns real property or lender holding a mortgage on real property that is subject to a lien filed under section 1 of this act may petition the department to have the lien removed or the amount of the lien reduced. If, after consideration of the petition and the information supporting the petition, the department decides to deny the request, the person may, within ninety days after receipt of the department's denial, file suit for removal or reduction of the lien. The person is entitled to removal of a lien filed under section 1(2)(a) of this act if they can prove by a preponderance of the evidence that the person is not a liable party under RCW 70.105D.040. The person is entitled to a reduction of the amount of the lien if they can prove by a preponderance of the evidence:

(a) For liens filed under section 1(2)(a) of this act, the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property; and

(b) For liens filed under section 1(2)(c) of this act, the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property or exceeds the increase of the fair market value of the real property solely attributable to the remedial action conducted by the department.

Sec. 3. RCW 70.105D.060 and 1994 c 257 s 13 are each amended to read as follows:

The department's investigative and remedial decisions under RCW 70.105D.030 and 70.105D.050, its decisions regarding filing a lien under section 1 of this act, and its decisions regarding liable persons under RCW 70.105D.020(~~((8) and)) (16), 70.105D.040, 70.105D.050, and section 1 of this act shall be reviewable exclusively in superior court and only at the following times: (1) In a cost recovery suit under RCW 70.105D.050(3); (2) in a suit by the department to enforce an order or an agreed order, or seek a civil penalty under this chapter; (3) in a suit for reimbursement under RCW 70.105D.050(2); (4) in a suit by the department to compel investigative or remedial action; (~~and~~) (5) in a citizen's suit under RCW 70.105D.050(5); and (6) in a suit for removal or reduction of a lien under RCW 70.105D.050(7). Except in suits for reduction or removal of a lien under RCW 70.105D.050(7), the court shall uphold the department's actions unless they were arbitrary and capricious. In suits for reduction or removal of a lien under RCW 70.105D.050(7), the court shall review such suits pursuant to the standards set forth in RCW 70.105D.050(7).~~"

Correct the title.

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

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

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5452 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Limiting genetic testing as a condition of life insurance. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; O'Brien; Santos; Simpson and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse; Serben and Strow

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5453 Prime Sponsor, Senator Delvin: Providing civil immunity for broadcasters participating in the Amber alert. 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; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

March 31, 2005

E2SSB 5454 Prime Sponsor, Senate Committee on Ways & Means: Revising trial court funding provisions. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 2.56 RCW to read as follows:

(1) The trial court improvement account is created in the custody of the state treasurer. Expenditures from the account may be made only to fund improvements to trial courts, including but not limited to improvements in trial court staffing, programs, facilities, and services. Revenues to the account consist of amounts appropriated by the legislature from the judicial improvement subaccount of the public safety and education account pursuant to section 3(2) of this act. Only the administrator for the courts 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.

(2) The administrator for the courts shall establish criteria by which applications for funds shall be submitted, approved, and funded. The criteria shall, at a minimum, include requirements for applicants to demonstrate the need for funding.

Sec. 2. RCW 2.56.030 and 2002 c 49 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing

techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180.

(20) Administer funds in the trial court improvement account and make grants from the account under section 1 of this act.

Sec. 3. RCW 43.08.250 and 2003 1st sp.s. c 25 s 918 are each amended to read as follows:

(1) The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, drug court operations, and state game programs. During the fiscal biennium ending June 30, 2005, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense and other operations of the office of public defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, treatment for supplemental security income clients, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, alternative school start-up grants, programs for disruptive students, criminal justice data collection, Washington state patrol criminal justice activities, drug court operations, unified family courts, local court backlog assistance, financial assistance to local jurisdictions for extraordinary costs incurred in the adjudication of criminal cases, domestic violence treatment and related services, the department of corrections' costs in implementing chapter 196, Laws of 1999, reimbursement of local governments for costs associated with implementing criminal and civil justice legislation, the replacement of the department of corrections' offender-based tracking system, secure and semi-secure crisis residential centers, HOPE beds, the family policy council and community public health and safety networks, the street youth program, public notification about

registered sex offenders, and narcotics or methamphetamine-related enforcement, education, training, and drug and alcohol treatment services.

(2) The judicial improvement subaccount is created as a subaccount of the public safety and education account. The money received by the state treasurer from the increase in fees imposed by sections 4, 5, 7, 8, 9, 12, and 14 of this act shall be deposited in the judicial improvement subaccount and shall be appropriated only for: (a) criminal indigent defense in the trial courts; (b) representation of parents in dependency and termination proceedings initiated by the state; (c) civil legal representation of indigent persons; and (d) deposit in the trial court improvement account under section 1 of this act.

Sec. 4. RCW 3.62.060 and 2003 c 222 s 15 are each amended to read as follows:

Clerks of the district courts shall collect the following fees for their official services:

(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of ~~((thirty-one))~~ forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(2) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of ~~((six))~~ twelve dollars.

(3) For filing a supplemental proceeding a fee of ~~((twelve))~~ twenty dollars.

(4) For demanding a jury in a civil case a fee of ~~((fifty))~~ one hundred twenty-five dollars to be paid by the person demanding a jury.

(5) For preparing a transcript of a judgment a fee of ~~((six))~~ twenty dollars.

(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(7) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(8) For duplication of part or all of the electronic ~~((tape or tapes))~~ recording of a proceeding ten dollars per tape or other electronic storage medium.

The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

NEW SECTION. Sec. 5. A new section is added to chapter 3.62 RCW to read as follows:

Upon conviction or a plea of guilty in any court organized under this title or Title 35 RCW, a defendant in a criminal case is liable for a fee of forty-three dollars. This fee shall be subject to division with the state under RCW 3.46.120(2), 3.50.100(2), 3.62.020(2), 3.62.040(2), and 35.20.220(2).

Sec. 6. RCW 4.12.090 and 1969 ex.s. c 144 s 1 are each amended to read as follows:

(1) When an order is made transferring an action or proceeding for trial, the clerk of the court must transmit the pleadings and papers therein to the court to which it is transferred and charge a fee as provided in RCW 36.18.016. The costs and fees thereof and of filing

the papers anew must be paid by the party at whose instance the order was made, except in the cases mentioned in RCW 4.12.030(1), in which case the plaintiff shall pay costs of transfer and, in addition thereto, if the court finds that the plaintiff could have determined the county of proper venue with reasonable diligence, it shall order the plaintiff to pay the reasonable attorney's fee of the defendant for the changing of venue to the proper county. The court to which an action or proceeding is transferred has and exercises over the same the like jurisdiction as if it had been originally commenced therein.

(2) In acting on any motion for dismissal without prejudice in a case where a motion for change of venue under subsection (1) of this section has been made, the court shall, if it determines the motion for change of venue proper, determine the amount of attorney's fee properly to be awarded to defendant and, if the action be dismissed, the attorney's fee shall be a setoff against any claim subsequently brought on the same cause of action.

Sec. 7. RCW 10.46.190 and 1977 ex.s. c 248 s 1 are each amended to read as follows:

Every person convicted of a crime or held to bail to keep the peace shall be liable to all the costs of the proceedings against him or her, including, when tried by a jury in the superior court or before a committing magistrate, a jury fee as provided for in civil actions (~~and when tried by a jury before a committing magistrate, twenty-five dollars for jury fee.~~) for which judgment shall be rendered and (~~collection had as in cases of fines~~) collected. The jury fee, when collected for a case tried by the superior court, shall be paid to the clerk (~~to be by him~~) and applied as the jury fee in civil cases is applied.

Sec. 8. RCW 12.12.030 and 1981 c 260 s 3 are each amended to read as follows:

After the appearance of the defendant, and before the (~~justice~~) judge shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county, unless the parties shall agree upon a lesser number: PROVIDED, That the party demanding the jury shall first pay to the (~~justice~~) clerk of the court the sum of one hundred twenty-five dollars, which shall be paid over by the (~~justice~~) clerk of the court to the county, and (~~said~~) such amount shall be taxed as costs against the losing party.

Sec. 9. RCW 12.40.020 and 1990 c 172 s 3 are each amended to read as follows:

A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of (~~ten~~) fourteen dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035.

Sec. 10. RCW 26.12.240 and 1993 c 435 s 2 are each amended to read as follows:

A county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to (~~ten~~) twenty dollars on only those superior court cases filed under Title 26 RCW, or both, to pay for the expenses of the courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county

funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section.

Sec. 11. RCW 27.24.070 and 1992 c 54 s 6 are each amended to read as follows:

In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to (~~twelve~~) seventeen dollars for every new probate or civil filing fee, including appeals and for every fee for filing a counterclaim, cross-claim, or third-party claim in any civil action, collected by the clerk of the superior court and (~~six~~) seven dollars for every fee collected for the commencement of a civil action and for the filing of a counterclaim, cross-claim, or third-party claim in any civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the (~~twelve~~) seventeen dollar contribution may be increased up to (~~fifteen~~) twenty dollars or in counties with multiple library sites up to thirty dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies.

Sec. 12. RCW 36.18.012 and 2001 c 146 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state for deposit in the public safety and education account under RCW 36.18.025.

(2) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing a fee of (~~fifteen~~) twenty dollars.

(3) The clerk shall collect a fee of twenty dollars for: Filing a paper not related to or a part of a proceeding, civil or criminal, or a probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law.

(4) If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay before proceeding with the unlawful detainer action (~~eighty~~) one hundred twelve dollars.

(5) For a restrictive covenant for filing a petition to strike discriminatory provisions in real estate under RCW 49.60.227 a fee of twenty dollars must be charged.

(6) A fee of twenty dollars must be charged for filing a will only, when no probate of the will is contemplated.

(7) A fee of (~~two~~) twenty dollars must be charged for filing a petition, written agreement, or written memorandum in a nonjudicial probate dispute under RCW 11.96A.220, if it is filed within an existing case in the same court.

(8) A fee of thirty-five dollars must be charged for filing a petition regarding a common law lien under RCW 60.70.060.

(9) For certification of delinquent taxes by a county treasurer under RCW 84.64.190, a fee of five dollars must be charged.

(10) For the filing of a tax warrant for unpaid taxes or overpayment of benefits by any agency of the state of Washington, a fee of five dollars on or after July 22, 2001, and for the filing of such a tax warrant or overpayment of benefits on or after July 1, 2003, a fee of twenty dollars, of which forty-six percent of the first five dollars is directed to the public safety and education account established under RCW 43.08.250.

Sec. 13. RCW 36.18.016 and 2002 c 338 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of ~~((twenty))~~ thirty-six dollars must be paid.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of ~~((fifty))~~ one hundred twenty-five dollars for a jury of six, or ~~((one))~~ two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing ~~((transcribing, or certifying))~~ a certified copy of an instrument on file or of record in the clerk's office, ((with or without seal,)) for the first page or portion of the first page, a fee of ~~((two))~~ five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of ~~((one))~~ two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

~~((8))~~ (9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

~~((9))~~ (10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

~~((10))~~ (11) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

~~((11))~~ (12) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

~~((12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.)~~

~~((13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.~~

~~((14))~~ (14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of ~~((five))~~ twenty dollars must be charged.

~~((15))~~ (14) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars must be charged.

~~((16))~~ (15) A facilitator surcharge of ~~((ten))~~ up to twenty dollars must be charged as authorized under RCW 26.12.240.

~~((17))~~ (16) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

~~((18))~~ (17) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

~~((19))~~ (18) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

~~((20))~~ (19) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

~~((21))~~ (20) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

~~((22))~~ (21) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

~~((23))~~ (22) Investment service charge and earnings under RCW 36.48.090 must be charged.

~~((24))~~ (23) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

~~((25))~~ (24) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

~~((26))~~ (25) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(26) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to the effective date of this section, and no claim shall lie against the state for such benefits.

Sec. 14. RCW 36.18.020 and 2000 c 9 s 1 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) The party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the paper is filed, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of ~~((thirty))~~ forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The ~~((thirty))~~ forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction

or any party on any civil appeal, shall pay, when the paper is filed, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of ~~((forty-one))~~ fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030."

Correct the title.

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

Passed to Committee on Appropriations.

March 31, 2005

SB 5461 Prime Sponsor, Senator Fairley: Changing limits on costs of incarceration charged to offenders. 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; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5463 Prime Sponsor, Senate Committee on Transportation: Allowing small appurtenances

on recreational vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Appleton; Buck; Campbell; Curtis; Dickerson; Ericksen; Flannigan; Hankins; 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.

March 31, 2005

SB 5477 Prime Sponsor, Senator Kline: Revising sentencing procedures for exceptional sentences. 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; Kagi; Kirby and Strow.

Passed to Committee on Appropriations.

March 30, 2005

SSB 5479 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Changing provisions relating to the unlawful detainer process under the residential landlord-tenant act. 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; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5492 Prime Sponsor, Senate Committee on Health & Long-Term Care: Modifying hospital reporting of restrictions on health care practitioners. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

On page 2, line 33, after "section" insert "in good faith"

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Bailey, Ranking Minority Member; Clibborn; Green; Hinkle; Lantz; Moeller and Morrell.

MINORITY recommendation: Without recommendation. Signed by Representatives Curtis, Assistant Ranking Minority Member; Alexander; Appleton and Schual-Berke

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5499 Prime Sponsor, Senate Committee on Government Operations & Elections: Clarifying and standardizing various election procedures. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 29A.04.008 and 2004 c 271 s 102 are each amended to read as follows:

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Provisional ballot" means a ballot issued ~~((to a voter))~~ at the polling place on election day by the precinct election board ~~((; for one of the following reasons))~~ to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the help America vote act, including but not limited to the following:

(a) The voter's name does not appear in the poll book;

(b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(d) Any other reason allowed by law;

(6) "Party ballot" means a primary election ballot specific to a particular major political party that lists all partisan offices to be

voted on at that primary, and the candidates for those offices who affiliate with that same major political party;

(7) "Nonpartisan ballot" means a primary election ballot that lists all nonpartisan races and ballot measures to be voted on at that primary.

Sec. 2. RCW 29A.04.530 and 2003 c 111 s 151 are each amended to read as follows:

The secretary of state shall:

(1) Establish and operate, or provide by contract, training and certification programs for state and county elections administration officials and personnel, including training on the various types of election law violations and discrimination, and training programs for political party observers which conform to the rules for such programs established under RCW 29A.04.630;

(2) Establish guidelines, in consultation with state and local law enforcement or certified document examiners, for signature verification processes. All election personnel assigned to verify signatures must receive training on the guidelines;

(3) Administer tests for state and county officials and personnel who have received such training and issue certificates to those who have successfully completed the training and passed such tests;

~~((3))~~ (4) Maintain a record of those individuals who have received such training and certificates; and

~~((4))~~ (5) Provide the staffing and support services required by the board created under RCW 29A.04.510.

NEW SECTION. Sec. 3. A new section is added to chapter 29A.36 RCW to read as follows:

All provisional ballots must be visually distinguishable from the other ballots and must be either:

(1) Printed on colored paper; or

(2) Imprinted with a bar code for the purpose of identifying the ballot as a provisional ballot. The bar code must not identify the voter.

Provisional ballots must be incapable of being tabulated by poll-site counting devices.

Sec. 4. RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The absentee voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and, except as otherwise provided by law, it is illegal to cast a ballot or sign an absentee envelope on behalf of another voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on

the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope must also have a secrecy flap that the voter may seal that will cover the voter's signature and return address. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

Sec. 5. RCW 29A.40.110 and 2003 c 111 s 1011 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin ~~((on or after the tenth day before the primary or election))~~ upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received absentee return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until after 8:00 p.m. of the day of the primary or election. Absentee ballots that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) Before opening a returned absentee ballot, the canvassing board, or its designated representatives, shall examine the postmark, statement, and signature on the return envelope that contains the security envelope and absentee ballot. They shall verify that the voter's signature on the return envelope is the same as the signature of that voter in the registration files of the county. For registered voters casting absentee ballots, the date on the return envelope to which the voter has attested determines the validity, as to the time of voting for that absentee ballot if the postmark is missing or is illegible. For out-of-state voters, overseas voters, and service voters stationed in the United States, the date on the return envelope to which the voter has attested determines the validity as to the time of voting for that absentee ballot. For any absentee ballot, a variation between the signature of the voter on the return envelope and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

NEW SECTION. Sec. 6. A new section is added to chapter 29A.44 RCW to read as follows:

Provisional ballots must be issued, along with a provisional ballot outer envelope and a security envelope, to voters as appropriate under RCW 29A.04.008. The provisional ballot outer envelope must include a place for the voter's name; registered address, both present

and former if applicable; date of birth; reason for the provisional ballot; the precinct number and the precinct polling location at which the voter has voted; and a space for the county auditor to list the disposition of the provisional ballot. The provisional ballot outer envelope must also contain a declaration as required for absentee ballot outer envelopes under RCW 29A.40.091; a place for the voter to sign the oath; and a summary of the applicable penalty provisions of this chapter. The voter shall vote the provisional ballot in secrecy and, when done, place the provisional ballot in the security envelope, then place the security envelope into the outer envelope, and return it to the precinct election official. The election official shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate space, and place the envelope in a secure container. The official shall then give the voter written information advising the voter how to ascertain whether the vote was counted and, if applicable, the reason why the vote was not counted.

NEW SECTION. Sec. 7. A new section is added to chapter 29A.60 RCW to read as follows:

(1) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for completing the unsigned affidavit. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

- (a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or
- (b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by telephone and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter. In order for the ballot to be counted, the voter must either:

- (i) Appear in person and sign a new registration form no later than the day before the certification of the primary or election; or
- (ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. If the signature on the copy of the affidavit does not match the signature on file, the voter must appear in person and sign a new registration form no later than the day before the certification of the primary or election in order for the ballot to be counted.

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the

voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.17 RCW and may be disclosed to interested parties on written request.

NEW SECTION. Sec. 8. A new section is added to chapter 29A.60 RCW to read as follows:

Before certification of the primary or election, the county auditor must examine and investigate all received provisional ballots to determine whether the ballot can be counted. The auditor shall provide the disposition of the provisional ballot and, if the ballot was not counted, the reason why it was not counted, on a free access system such as a toll-free telephone number, web site, mail, or other means. The auditor must notify the voter in accordance with section 7 of this act when the envelope is unsigned or when the signatures do not match.

NEW SECTION. Sec. 9. A new section is added to chapter 29A.60 RCW to read as follows:

No later than thirty days after final certification, the county auditor shall prepare and make publicly available at the auditor's office or on the auditor's web site, an election reconciliation report that discloses, at a minimum, the following information: The number of ballots counted; the number of voters credited with voting; the number of provisional ballots issued; the number of provisional ballots counted; the number of provisional ballots rejected; the number of absentee ballots issued; the number of absentee ballots counted; the number of absentee ballots rejected; the number of federal write-in ballots counted; the number of ballots sent to overseas voters and the number of such ballots that were counted; and any other information the auditor determines to be necessary to the process of reconciling the number of votes counted with the number of voters credited with voting.

Sec. 10. RCW 29A.60.021 and 2004 c 271 s 147 are each amended to read as follows:

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29A.24.311 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. ~~((For a partisan primary in a jurisdiction using the physically separate ballot format, a voter may write in on a party ballot only the names of write-in candidates who affiliate with that major political party.))~~ No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29A.24.311 is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office~~(s)~~ or position~~(, or political party shall)~~ will be accepted if the canvassing board can determine, to ~~((their))~~ its satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) A write-in vote for an individual candidate for an office whose name appears on the ballot for that same office is a valid vote for that candidate as long as the candidate's name is clearly

discernible, even if other requirements of RCW 29A.24.311 are not satisfied and even if the voter also marked a vote for that candidate such as to register an over vote. These votes need not be tabulated unless: (a) The difference between the number of votes cast for the candidate apparently qualified to appear on the general election ballot or elected and the candidate receiving the next highest number of votes is less than the sum of the total number of write-in votes cast for the office plus the over votes and under votes recorded by the vote tabulating system; or (b) a manual recount is conducted for that office.

(4) Write-in votes cast for an individual candidate for an office whose name does not appear on the ballot need not be tallied ((if)) unless the total number of write-in votes and under votes recorded by the vote tabulation system for the office is ((not)) greater than the number of votes cast for the candidate apparently ((nominated)) qualified to appear on the general election ballot or elected~~((, and the write-in votes could not have altered the outcome of the primary or election. In the case of write-in votes for statewide office or for any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied whenever the county auditor is notified by either the office of the secretary of state or another auditor in a multicounty jurisdiction that it appears that the write-in votes could alter the outcome of the primary or election)).~~

((4)) (5) In the case of write-in votes for a statewide office((s)) or any office whose jurisdiction~~((s that))~~ encompasses more than one county, ((if the total number of write-in votes and under votes recorded by the vote tabulation system for an office within a county is greater than the number of votes cast for a candidate apparently nominated or elected in a primary or election, the auditor shall tally all write-in votes for individual candidates for that office and notify the office of the secretary of state and the auditors of the other counties within the jurisdiction, that the write-in votes for individual candidates should be tallied)) write-in votes for an individual candidate must be tallied when the county auditor is notified by either the secretary of state or another county auditor in the multicounty jurisdiction that it appears that the write-in votes must be tabulated under the terms of this section. In all other cases, the county auditor determines when write-in votes must be tabulated. Any abstract of votes must be modified to reflect the tabulation and certified by the canvassing board. Tabulation of write-in votes may be performed simultaneously with a recount.

Sec. 11. RCW 29A.60.050 and 2003 c 111 s 1505 are each amended to read as follows:

Whenever the precinct election officers or the counting center personnel have a question about the validity of a ballot or the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise record of the facts in question or dispute. These ballots shall be delivered to the canvassing board for processing. A ballot is not considered rejected until the canvassing board has rejected the ballot individually, or the ballot was included in a batch or on a report of ballots that was rejected in its entirety by the canvassing board. All ballots shall be preserved in the same manner as valid ballots for that primary or election.

Sec. 12. RCW 29A.60.070 and 2003 c 111 s 1507 are each amended to read as follows:

The county auditor shall produce cumulative and precinct returns for each primary and election and deliver them to the canvassing board for verification and certification. The precinct and cumulative returns of any primary or election are public records under chapter 42.17 RCW.

Cumulative returns for state offices, judicial offices, the United States senate, and congress must be electronically transmitted to the secretary of state immediately.

Sec. 13. RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to read as follows:

~~((At least every third day after a primary or election and before certification of the election results.))~~ Except Sundays and legal holidays, the county auditor, as delegated by the county canvassing board, shall process absentee ballots and canvass the votes cast at that primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than twenty-five ballots that have yet to be canvassed. The county auditor, as delegated by the county canvassing board, may use his or her discretion in determining when to process the remaining absentee ballots and canvass the votes during the final four days before the certification of election results in order to protect the secrecy of any ballot. In counties where this process has not been delegated to the county auditor, the county auditor shall convene the county canvassing board to process absentee ballots and canvass the votes cast at the primary or election as set forth in this section.

Each absentee ballot previously not canvassed that was received by the county auditor two days or more before processing absentee ballots and canvassing the votes as delegated by or processed by the county canvassing board, that either was received by the county auditor before the closing of the polls on the day of the primary or election for which it was issued, or that bears a postmark on or before the primary or election for which it was issued, must be processed at that time. The tabulation of votes that results from that day's canvass must be made available to the general public immediately upon completion of the canvass.

Sec. 14. RCW 29A.60.190 and 2004 c 266 s 18 are each amended to read as follows:

(1) ~~((On the tenth day after a special election or primary and on the fifteenth day))~~ Ten days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls on the date of the primary or election for which it was issued, and each absentee ballot with a postmark on or before the date of the primary or election for which it was issued and received on or before the date on which the primary or election is certified, must be included in the canvass report.

(2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.

Sec. 15. RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to read as follows:

Whenever the canvassing board finds during the initial counting process, or during any subsequent recount thereof, that there is an apparent discrepancy or an inconsistency in the returns of a primary or election, or that election staff has made an error regarding the treatment or disposition of a ballot, the board may recanvass the ballots or voting devices in any precincts of the county. The canvassing board shall conduct any necessary recanvass activity on or before the last day to certify or recertify the results of the primary

~~((or))~~, election, or subsequent recount and correct any error and document the correction of any error that it finds.

Sec. 16. RCW 29A.60.250 and 2003 c 111 s 1525 are each amended to read as follows:

As soon as the returns have been received from all the counties of the state, but not later than the thirtieth day after the election, the secretary of state shall ~~((make a))~~ canvass ~~((of such of the returns as are not required to be canvassed by the legislature and make out a statement thereof, file it in his or her office, and transmit a certified copy to the governor))~~ and certify the returns of the general election as to candidates for state offices, the United States senate, congress, and all other candidates whose districts extend beyond the limits of a single county. The secretary of state shall transmit a copy of the certification to the governor, president of the senate, and speaker of the house of representatives.

Sec. 17. RCW 29A.64.021 and 2004 c 271 s 178 are each amended to read as follows:

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b)(i) For statewide elections, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one ((hundred fifty)) thousand votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(ii) For elections not included in (b)(i) of this subsection, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

Sec. 18. RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW ~~((29A.64.080))~~ 29A.64.081.

The county canvassing board shall determine ~~((a))~~ the date, time, and ~~((a))~~ place or places at which the recount will be conducted. ~~((This time shall be less than three business days after the day upon which the application was filed with the board; the request for a recount or directive ordering a recount was received by the board from the secretary of state; or the returns are certified which indicate that a recount is required under RCW 29A.64.020 for an issue or office voted upon only within the county.))~~ Not less than two days before the date of the recount, the county auditor shall mail a notice of the time and place of the recount to the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office. The county auditor shall also notify the affected parties by either telephone, fax, e-mail, or other electronic means at the time of mailing. At least three attempts must be made over a two-day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received. Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

Sec. 19. RCW 29A.64.061 and 2004 c 271 s 180 are each amended to read as follows:

Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be transmitted to the same officers who received the abstract on which the recount was based.

If the nomination, election, or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the nomination, election, or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. The secretary of state may require that the amended abstracts be certified by each canvassing board on a uniform date. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

Sec. 20. RCW 29A.68.011 and 2004 c 271 s 182 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) ~~((above))~~ of this section when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the ~~((issuance of a certificate of election))~~ official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

NEW SECTION. **Sec. 21.** A new section is added to chapter 29A.84 RCW to read as follows:

A person who knowingly destroys, alters, defaces, conceals, or discards a completed voter registration form or signed absentee or provisional ballot signature affidavit is guilty of a gross misdemeanor. This section does not apply to (1) the voter who completed the voter registration form, or (2) a county auditor or registration assistant who acts as authorized by voter registration law.

Sec. 22. RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to read as follows:

(1) Any person who intentionally or knowingly votes or attempts to vote more than once ~~((at any))~~ in this state in the same primary or general or special election, or who is registered to vote in another state and who votes or attempts to vote in this state, is guilty of a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

(2) Any person who recklessly or negligently violates this section has committed a class 1 civil infraction as provided in RCW 7.80.120. The county prosecuting attorney is authorized to enforce this subsection.

NEW SECTION. **Sec. 23.** This act takes effect January 1, 2006."

Correct the title.

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 Appropriations.

March 31, 2005

SB 5518 Prime Sponsor, Senator Eide: Increasing certain fees of licensing subagents. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Buck; Campbell; Curtis; Dickerson; Ericksen; Hankins; Jarrett; Kilmer; Lovick; Morris; Nixon; Rodne; Schindler; Sells; Shabro; Simpson; B. Sullivan; Takko and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Appleton; Flannigan; Hudgins and Upthegrove

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5530 Prime Sponsor, Senator Kline: Prohibiting discrimination in life insurance based on lawful travel destinations. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.18 RCW to read as follows:

(1) No life insurer may deny or refuse to accept an application for insurance, or refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, based upon the applicant's or insured person's past or future lawful travel destinations.

(2) Nothing in this section prohibits a life insurer from excluding or limiting coverage of specific lawful travel, or charging a differential rate for such coverage, when bona fide statistical differences in risk or exposure have been substantiated."

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.

April 1, 2005

SSB 5551 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Studying the minimum wage. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 1, beginning on line 9, after "that" strike all text through "economy." on page 1, line 14, and insert "it is in the best interests of the state to examine the impact that changes in the minimum wage have had on workers, businesses, and Washington's economy."

On page 2, after line 6, insert the following:

"(3) The extent to which the minimum wage has improved the standard of living for workers in low-wage employment;

(4) Wage compression or expansion for workers earning wages up to 130 percent of the minimum wage;"

Renumber the subsections consecutively and correct any internal references accordingly.

On page 2, line 15, after "industries" strike "over the past seven years" and insert "from 1990 to the present"

On page 2, beginning on line 18, strike all of subsection (6)

Renumber the subsections consecutively and correct any internal references accordingly.

On page 2, beginning on line 25, strike all of subsection (8) and insert "(8) Whether there is any correlation between changes in the state minimum wage and the state unemployment rate."

On page 2, line 30, after "laws" strike "over the last five years" and insert "from 1990 to the present"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Hudgins and McCoy.

Passed to Committee on Appropriations.

March 30, 2005

SSB 5552 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Requiring school districts to request information from employment applicants' out-of-state employers. 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; Santos; Shabro and Tom.

Reported by Committee on Technology, Energy & Communications

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

March 28, 2005
SB 5563 Prime Sponsor, Senator Franklin: Including women's contributions in the World War II oral history project. Reported by Committee on Education

"NEW SECTION. Sec. 1. LEGISLATIVE DECLARATION. The legislature declares it to be a clear public purpose and governmental function to promote life sciences research to foster a preventive and predictive vision of the next generation of health-related innovations, to enhance the competitive position of Washington state in this vital sector of the economy, and to improve the quality and delivery of health care for the people of Washington. It is appropriate and consistent with the intent of the master settlement agreement between the state and tobacco product manufacturers to invest a portion of the revenues derived therefrom by the state in life sciences research, to leverage the revenues with other funds, and to encourage cooperation and innovation among public and private institutions involved in life sciences research. The purpose of this chapter is to establish a life sciences discovery fund authority, to grant that authority the power to contract with the state to receive revenues under the master settlement agreement, and to contract with other entities to receive other funds, and to disburse those funds consistent with the purpose of this chapter. The life sciences discovery fund is intended to promote the best available research in life sciences disciplines through diverse Washington institutions and to foster improved health care outcomes and improved agricultural production research across this state and the world. The research investments of the life sciences discovery fund are intended to further the goals of the "Bio 21" report and to support future statewide, comprehensive strategies to lead the nation in life sciences-related research and employment.

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; Santos; Shabro and Tom.

Passed to Committee on Appropriations.

April 1, 2005
SB 5564 Prime Sponsor, Senator Schmidt: Requiring the secretary of state to prepare a manual of election laws and rules. 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 and Miloscia.

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

Passed to Committee on Rules for second reading.

April 1, 2005
SB 5565 Prime Sponsor, Senator Schmidt: Informing out-of-state, overseas, and service voters of rights and procedures. Reported by Committee on State Government Operations & Accountability

(1) "Authority" means the life sciences discovery fund authority created in this chapter.

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.

(2) "Board" means the governing board of trustees of the authority.

Passed to Committee on Rules for second reading.

March 29, 2005
E2SSB 5581 Prime Sponsor, Senate Committee on Ways & Means: Establishing the life sciences discovery fund. (REVISED FOR ENGROSSED: Establishing the life sciences discovery fund authority.)

(3) "Contribution agreement" means any agreement authorized under this chapter in which a private entity or a public entity other than the state agrees to provide to the authority contributions for the purpose of promoting life sciences research.

(4) "Life sciences research" means advanced and applied research and development intended to improve human health.

(5) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(6) "Public employee" means any person employed by the state of Washington or any agency or political subdivision thereof.

(7) "Public facilities" means any public institution, public facility, public equipment, or any physical asset owned, leased, or controlled by the state of Washington or any agency or political subdivision thereof.

(8) "Public funds" means any funds received or controlled by the state of Washington or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state, or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

(9) "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

(10) "Strategic contribution payments" means the payments designated as such under the master settlement agreement, which will be made to the state in the years 2008 through 2017.

NEW SECTION. Sec. 3. LIFE SCIENCES DISCOVERY FUND AUTHORITY--ESTABLISHED. (1) The life sciences discovery fund authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

(2) The powers of the authority are vested in and shall be exercised by a board of trustees consisting of: Two members of either the house appropriations committee or the house committee dealing with technology issues, one from each caucus, to be appointed by the speaker of the house of representatives; two members of either the senate committee on ways and means or the senate committee dealing with technology issues, one from each caucus, to be appointed by the president of the senate; and seven members appointed by the governor with the consent of the senate, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the board and as chair of the authority at the pleasure of the governor. At least one member of the board shall be experienced in applied agricultural production research. The governor shall make the initial appointments no later than thirty days after the effective date of this section. The term of the trustees, other than the chair, is four years from the date of their appointment, except that the terms of three of the initial appointees, as determined by the governor, are for two years from the date of their appointment. A trustee may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The trustees shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060.

(3) Seven members of the board constitute a quorum.

(4) The trustees shall elect a treasurer and secretary annually, and other officers as the trustees determine necessary, and may adopt bylaws or rules for their own government.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the trustees so requests. Meetings of the board may be held at any location within or out of the state, and trustees may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The authority is subject to audit by the state auditor.

(7) The attorney general must advise the authority and represent it in all legal proceedings.

NEW SECTION. Sec. 4. SPECIAL TRUST POWERS. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Enter into an agreement with the state for the receipt of strategic contribution payments and of the state's rights to receive the amounts in consideration of the authority's promise to leverage the revenues with amounts received from other public and private sources in accordance with contribution agreements and to hold the funds in trust for the benefit of its funders and its grant recipients for their use pursuant to this chapter to promote life sciences research. The funds received from the state under this subsection shall be deposited in the life sciences discovery fund hereby created in the state treasury;

(2) Enter into agreements with private entities and public entities other than the state for the receipt of funds in consideration of the authority's promise to leverage the funds with amounts received in accordance with the state agreement, and contributions from other public entities and private entities and to hold the funds in trust for their use pursuant to this chapter to promote life sciences and related research;

(3) Hold funds received by the authority in trust for their use pursuant to this chapter to promote life sciences research;

(4) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(5) Make grants to entities pursuant to contract for the promotion of life sciences research to be conducted in the state. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research; (b) its potential for leveraging additional funding; (c) its potential to provide health care benefits; (d) its potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (e) the geographic diversity of the grantees within Washington; (f) evidence of potential royalty income and contractual means to recapture such income for purposes of this chapter; and (g) evidence of public and private collaboration;

(6) Create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research; and

(7) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

NEW SECTION. Sec. 5. GENERAL POWERS--RESTRICTIONS. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may: (1) Sue and be sued in its own name; (2) make and execute agreements, contracts, and other instruments, with any public or private person or entity, in accordance with this chapter; (3) employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter; (4) establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter; (5) enter into contracts with public and private entities for life sciences research to be conducted in the state; (6) adopt rules, consistent with this chapter; (7) delegate any of its powers and duties if consistent with the purposes of this chapter; (8) exercise any other power reasonably required to implement the purposes of this chapter; and (9) hire staff and pay administrative costs.

NEW SECTION. Sec. 6. AUTHORIZATION OF THE CONTRIBUTION OF RIGHTS IN THE MASTER SETTLEMENT AGREEMENT. (1) The governor is authorized to contribute and assign to the authority all of the state's right to receive the strategic contribution payments. The governor and the authority are authorized to take any action necessary to facilitate and complete the assignment.

(2) The contribution made under this section shall be made if nonstate contributions in an amount not less than twenty million dollars have been promised to the authority pursuant to one or more contribution agreements and no less than ten million dollars have been received by the authority under contribution agreements. The characterization of such a contribution by the state may not be negated or adversely affected by the fact that only a portion of the revenue from the master settlement agreement is being contributed and assigned, or by the state's acquisition or retention of an ownership interest in the portion of the revenue from the master settlement agreement not so assigned.

(3) In addition to such other terms, provisions, and conditions as the governor and the authority may determine appropriate for inclusion in the state agreement, the state agreement must contain a:

(a) Covenant of the state that the state will not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the strategic contribution payments; (b) requirement that the state enforce, at its own expense, the provisions of the master settlement agreement that require the payment of the strategic contribution payments to the authority.

(4) On or after the effective date of the state agreement, the state shall not have any right, title, or interest in the portion of the strategic contribution payments and such payments are the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its assignee, and not the state.

(5) The strategic contribution payments so contributed and assigned may not be deemed to be general state revenues as that term is used in Article VIII, section 1 of the state Constitution.

NEW SECTION. Sec. 7. LIMITATION OF LIABILITY. Members of the board and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. Neither the state nor the authority is liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research funded by such grants.

NEW SECTION. Sec. 8. DISSOLUTION OF THE AUTHORITY. The authority may petition the legislature to be dissolved upon a showing that it has no reason to exist and that any assets it retains must be distributed to one or more similar entities approved by the legislature. The legislature reserves the right to dissolve the authority after its contractual obligations to its funders and grant recipients have expired.

NEW SECTION. Sec. 9. A new section is added to chapter 82.04 RCW to read as follows:

BUSINESS AND OCCUPATION TAX EXEMPTION. This chapter does not apply to income received by the life sciences discovery fund authority under chapter 43.-- RCW (sections 1 through 8 of this act).

Sec. 10. RCW 43.79.480 and 2002 c 365 s 15 are each amended to read as follows:

(1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the tobacco settlement account created in this section except as these moneys are sold or assigned under chapter 43.340 RCW or are contributed or assigned under chapter 43.-- RCW (sections 1 through 8 of this act).

(2) The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the health services account for the purposes set forth in RCW 43.72.900, and to the tobacco prevention and control account for purposes set forth in this section.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation.

Sec. 11. RCW 42.30.110 and 2003 c 277 s 1 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an

official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential unpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

NEW SECTION. Sec. 12. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, this chapter does not apply to employees of the life sciences discovery fund authority under chapter 43.-- RCW (sections 1 through 8 of this act).

Sec. 13. RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to

chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health,

specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair

competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

(eee) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) Proprietary information deemed confidential for the purposes of section 923, chapter 26, Laws of 2003 1st sp. sess.

(hhh) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.-- RCW (sections 1 through 8 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 14. RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) 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.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) 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 (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) 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.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) 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.

(aa) 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.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) 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.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) 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.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring

or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

(tt) 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.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information

prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased

veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

(eee) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) 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.

(ggg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.-- RCW (sections 1 through 8 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 15. RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are each reenacted and amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of ecology, the commissioner of employment security, the ~~((chairman))~~ chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of

Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 16. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the

higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the life sciences discovery fund, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the

transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

Sec. 17. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the

higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the life sciences discovery fund, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the

transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

Sec. 18. RCW 43.84.092 and 2004 c 242 s 60 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure

account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the life sciences discovery fund, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the

transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

NEW SECTION. Sec. 19. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 20. LIBERAL CONSTRUCTION. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed.

NEW SECTION. Sec. 21. CODIFICATION. Sections 1 through 8 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 22. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. EXPIRATION DATES. (1) Section 13 of this act expires June 30, 2005.

(2) Section 16 of this act expires July 1, 2005.

(3) Section 17 of this act expires July 1, 2006.

NEW SECTION. Sec. 24. EFFECTIVE DATE. 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, except for section 14 of this act, which takes effect June 30, 2005, section 17 of this act, which takes effect July 1, 2005, and section 18 of this act, which takes effect July 1, 2006."

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Nixon; P. Sullivan; Takko and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Sump

Passed to Committee on Appropriations.

March 31, 2005

SB 5582 Prime Sponsor, Senator Regala: Clarifying how demographic factors are used with regard to sexually violent predators. 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; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5583 Prime Sponsor, Senator Regala: Requiring training of children's administration employees concerning older children who are victims of abuse or neglect. 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. A new section is added to chapter 26.44 RCW to read as follows:

(1) Within existing resources, the department shall develop a curriculum designed to train staff of the department's children's administration who assess or provide services to adolescents on how to screen and respond to referrals to child protective services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. At a minimum, the curriculum developed pursuant to this section shall include:

(a) Review of relevant laws and regulations, including the requirement that the department investigate complaints if a parent's or caretaker's actions result in serious physical or emotional harm or present an imminent risk of serious harm to any person under eighteen;

(b) Review of policies of the department's children's administration that require assessment and screening of abuse and neglect referrals on the basis of risk and not age;

(c) Explanation of safety assessment and risk assessment models;

(d) Case studies of situations in which the department has received reports of alleged abuse or neglect of older children and adolescents;

(e) Discussion of best practices in screening and responding to referrals involving older children and adolescents; and

(f) Discussion of how abuse and neglect referrals related to adolescents are investigated and when law enforcement must be notified.

(2) As it develops its curriculum pursuant to this section, the department shall request that the office of the family and children's ombudsman review and comment on its proposed training materials. The department shall consider the comments and recommendations of the office of the family and children's ombudsman as it develops the curriculum required by this section.

(3) The department shall complete the curriculum materials required by this section no later than December 31, 2005.

(4) Within existing resources, the department shall incorporate training on the curriculum developed pursuant to this section into existing training for child protective services workers who screen intake calls, children's administration staff responsible for assessing or providing services to older children and adolescents, and all new employees of the children's administration responsible for assessing or providing services to older children and adolescents.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

(1) The department shall review a sampling of the screening decisions by child protective services related to children between the ages of eleven and eighteen on a quarterly basis through June 30, 2007. The sampling shall consist of not less than the proportionate

share of the two and one-half percent of all screening decisions regularly reviewed by the department that are related to children between the ages of eleven and eighteen. The sampling shall be representative of the diversity of screening decisions related to children between the ages of eleven and eighteen.

(2) The department shall use the results of the quarterly reviews required by this section to improve practice and to improve the curriculum required by section 1 of this act. The department shall also report to the governor and the appropriate committees of the legislature on the quarterly reviews required by this section on August 1, 2006, and August 1, 2007."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Passed to Committee on Rules for second reading.

March 30, 2005

SSB 5585 Prime Sponsor, Senate Committee on Government Operations & Elections: Requiring a report from port districts regarding management of former commercial waterway district property. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Takko and Woods.

MINORITY recommendation: Do not pass. Signed by Representatives Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5599 Prime Sponsor, Senate Committee on Health & Long-Term Care: Providing for a central resource center for the nursing work force. 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.** Washington state is experiencing a critical shortage of registered nurses. To safeguard and promote patient safety and quality of care, the legislature finds that a central resource center for the nursing work force is critical and essential in addressing the nursing shortage and ensuring that the public continue to receive safe, quality care.

Sec. 2. RCW 43.70.110 and 1993 sp.s. c 24 s 918 are each amended to read as follows:

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

(2) Except as provided in section 4 of this act, until June 30, 2013, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

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

Sec. 3. RCW 43.70.250 and 1996 c 191 s 1 are each amended to read as follows:

It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program, except as provided in section 4 of this act until June 30, 2013. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 18.79 RCW to read as follows:

(1) In addition to the licensing fee for registered nurses and licensed practical nurses licensed under this chapter, the department shall impose an additional surcharge of five dollars per year on all initial licenses and renewal licenses for registered nurses and licensed practical nurses issued under this chapter. Advanced registered nurse practitioners are only required to pay the surcharge on their registered nurse licenses.

(2) The department, in consultation with the commission and the work force training and education coordinating board, shall use the proceeds from the surcharge imposed under subsection (1) of this section to provide grants to a central nursing resource center. The grants may be awarded only to a not-for-profit central nursing resource center that is comprised of and led by nurses. The central nursing resource center will demonstrate coordination with relevant nursing constituents including professional nursing organizations, groups representing nursing educators, staff nurses, nurse managers or executives, and labor organizations representing nurses. The central nursing resource center shall have as its mission to contribute to the health and wellness of Washington state residents by ensuring that there is an adequate nursing work force to meet the current and future health care needs of the citizens of the state of Washington. The grants may be used to fund the following activities of the central nursing resource center:

(a) Maintain information on the current and projected supply and demand of nurses through the collection and analysis of data

regarding the nursing work force, including but not limited to education level, race and ethnicity, employment settings, nursing positions, reasons for leaving the nursing profession, and those leaving Washington state to practice elsewhere. This data collection and analysis must complement other state activities to produce data on the nursing work force and the central nursing resource center shall work collaboratively with other entities in the data collection to ensure coordination and avoid duplication of efforts;

(b) Monitor and validate trends in the applicant pool for programs in nursing. The central nursing resource center must work with nursing leaders to identify approaches to address issues arising related to the trends identified, and collect information on other states' approaches to addressing these issues;

(c) Facilitate partnerships between the nursing community and other health care providers, licensing authority, business and industry, consumers, legislators, and educators to achieve policy consensus, promote diversity within the profession, and enhance nursing career mobility and nursing leadership development;

(d) Evaluate the effectiveness of nursing education and articulation among programs to increase access to nursing education and enhance career mobility, especially for populations that are underrepresented in the nursing profession;

(e) Provide consultation, technical assistance, data, and information related to Washington state and national nursing resources;

(f) Promote strategies to enhance patient safety and quality patient care including encouraging a safe and healthy workplace environment for nurses; and

(g) Educate the public including students in K-12 about opportunities and careers in nursing.

(3) The nursing resource center account is created in the custody of the state treasurer. All receipts from the surcharge in subsection (1) of this section must be deposited in the account. Expenditures from the account may be used only for grants to an organization to conduct the specific activities listed in subsection (2) of this section and to compensate the department for the reasonable costs associated with the collection and distribution of the surcharge and the administration of the grant provided for in subsection (2) of this section. No money from this account may be used by the recipient towards administrative costs of the central nursing resource center not associated with the specific activities listed in subsection (2) of this section. No money from this account may be used by the recipient toward lobbying. Only the secretary or the secretary'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. Grants will be awarded on an annual basis and funds will be distributed quarterly. The first distribution after awarding the first grant shall be made no later than six months after the effective date of this section. The central nursing resource center shall report to the department on meeting the grant objectives annually.

(4) The central nursing resource center shall submit a report of all progress, collaboration with other organizations and government entities, and activities conducted by the center to the relevant committees of the legislature by November 30, 2011. The department shall conduct a review of the program to collect funds to support the activities of a nursing resource center and make recommendations on the effectiveness of the program and whether it should continue. The review shall be paid for with funds from the nursing resource center account. The review must be completed by June 30, 2012.

(5) The department may adopt rules as necessary to implement this act.

NEW SECTION. Sec. 5. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2013:

- (1) Section 1, chapter . . . , Laws of 2005 (section 1 of this act); and
- (2) Section 4, chapter . . . , Laws of 2005 (section 4 of this act)."

Correct the title.

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

Passed to Committee on Appropriations.

April 1, 2005

SSB 5602 Prime Sponsor, Senate Committee on Agriculture & Rural Economic Development; Managing livestock nutrients. 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 a livestock nutrient management program is essential to protecting the quality of the waters of the state and ensuring a healthy and productive livestock industry. The legislature intends to shift the program for regulating water quality for confined animal feeding operations from the department of ecology to the department of agriculture. The department of agriculture shall establish and administer a fully functioning state program for concentrated animal feeding operations in the state and this program will be a single program for all livestock sectors. The department of agriculture shall have the authority to (1) carry out inspections to identify, control, and prevent the pollution of surface and underground waters of the state resulting from activities of dairies and concentrated animal feeding operations; (2) provide technical, financial, and educational assistance necessary to gain compliance to protect water quality; (3) with the assistance of the attorney general, bring any appropriate action at law or in equity to ensure compliance with all state and federal water pollution control laws for those dairies and concentrated animal feeding operations under permit; (4) adopt such rules as it deems necessary to administer the CAFO program, as well as rules to accommodate changes to federal regulations that are subsequently adopted by the United States environmental protection agency; and (5) administer the national pollutant discharge elimination system permit program for those dairy and concentrated animal feeding operations required to comply with national pollutant discharge elimination system standards under the federal clean water act, after receiving delegated authority by the environmental protection agency."

Correct the title.

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

Passed to Committee on Rules for second reading.

April 1, 2005

SB 5609 Prime Sponsor, Senator Shin: Increasing the operating fee waiver authority for Central Washington University. Reported by Committee on Higher 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; Jarrett; Ormsby; Priest and Roberts.

Passed to Committee on Appropriations.

April 1, 2005

SSB 5610 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Promoting salmon recovery on a regionwide basis. 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 77.85.005 and 1999 sp.s. c 13 s 1 are each amended to read as follows:

The legislature finds that repeated attempts to improve salmonid fish runs throughout the state of Washington have failed to avert listings of salmon and steelhead runs as threatened or endangered under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.). These listings threaten the sport, commercial, and tribal fishing industries as well as the economic well-being and vitality of vast areas of the state. It is the intent of the legislature to begin activities required for the recovery of salmon stocks as soon as possible, although the legislature understands that successful recovery efforts may not be realized for many years because of the life cycle of salmon and the complex array of natural and human-caused problems they face.

The legislature finds that it is in the interest of the citizens of the state of Washington for the state to retain primary responsibility for managing the natural resources of the state, rather than abdicate those responsibilities to the federal government, and that the state may best accomplish this objective by integrating local and regional recovery activities into a statewide ((~~plan~~)) strategy that can make the most effective use of provisions of federal laws allowing for a state lead in salmon recovery, delivered through implementation activities

consistent with regional and watershed recovery plans. The legislature also finds that a statewide salmon recovery ((~~plan~~)) strategy must be developed and implemented through an active public involvement process in order to ensure public participation in, and support for, salmon recovery. The legislature also finds that there is a substantial link between the provisions of the federal endangered species act and the federal clean water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat restoration is a vital component of salmon recovery efforts. Therefore, it is the intent of the legislature to specifically address salmon habitat restoration in a coordinated manner and to develop a structure that allows for the coordinated delivery of federal, state, and local assistance to communities for habitat projects that will assist in the recovery and enhancement of salmon stocks. A strong watershed-based locally implemented plan is essential for local, regional, and statewide salmon recovery.

The legislature also finds that credible scientific review and oversight is essential for any salmon recovery effort to be successful.

The legislature further finds that it is important to monitor the overall health of the salmon resource to determine if recovery efforts are providing expected returns. It is important to monitor salmon habitat projects and salmon recovery activities to determine their effectiveness in order to secure federal acceptance of the state's approach to salmon recovery. Adaptive management cannot exist without monitoring. For these reasons, the legislature believes that a coordinated and integrated monitoring ((~~process~~)) system should be developed and implemented.

The legislature therefore finds that a coordinated framework for responding to the salmon crisis is needed immediately. To that end, the salmon recovery office should be created within the governor's office to provide overall coordination of the state's response; an independent science panel is needed to provide scientific review and oversight; a coordinated state funding process should be established through a salmon recovery funding board; the appropriate local or tribal government should provide local leadership in identifying and sequencing habitat projects to be funded by state agencies; habitat projects should be implemented without delay; and a strong locally based effort to restore salmon habitat should be established by providing a framework to allow citizen volunteers to work effectively.

Sec. 2. RCW 77.85.010 and 2002 c 210 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Critical pathways methodology" means a project scheduling and management process for examining interactions between habitat projects and salmonid species, prioritizing habitat projects, and assuring positive benefits from habitat projects.

(3) "Habitat project list" is the list of projects resulting from the critical pathways methodology under RCW 77.85.060(2). Each project on the list must have a written agreement from the landowner on whose land the project will be implemented. Projects include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities.

(4) "Habitat work schedule" means those projects from the habitat project list that will be implemented during the current

funding cycle. The schedule shall also include a list of the entities and individuals implementing projects, the start date, duration, estimated date of completion, estimated cost, and funding sources for the projects.

(5) "Limiting factors" means conditions that limit the ability of habitat to fully sustain populations of salmon. These factors are primarily fish passage barriers and degraded estuarine areas, riparian corridors, stream channels, and wetlands.

(6) "Project sponsor" is a county, city, special district, tribal government, state agency, a combination of such governments through interlocal or interagency agreements, a nonprofit organization, regional fisheries enhancement group, or one or more private citizens. A project sponsored by a state agency may be funded by the board only if it is included on the habitat project list submitted by the lead entity for that area and the state agency has a local partner that would otherwise qualify as a project sponsor.

(7) "Regional recovery organization" or "regional salmon recovery organization" means an entity formed for the purpose of recovering salmon, which is recognized in statute or by the salmon recovery office.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

~~((8))~~ (9) "Salmon recovery plan" means a state or regional plan developed in response to a proposed or actual listing under the federal endangered species act that addresses limiting factors including, but not limited to harvest, hatchery, hydropower, habitat, and other factors of decline.

~~((9))~~ (10) "Salmon recovery region" means geographic areas of the state identified in RCW 77.85.090 that encompass groups of watersheds in the state with common stocks of salmon identified for recovery activities, and that generally are consistent with the geographic areas within the state identified by the national oceanic and atmospheric administration or the United States fish and wildlife service for activities under the federal endangered species act. The salmon recovery regions designated under RCW 77.85.090 are salmon recovery regions for all purposes of this chapter.

(11) "Tribe" or "tribes" means federally recognized Indian tribes.

~~((10))~~ (12) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

~~((11))~~ (13) "Owner" means the person holding title to the land or the person under contract with the owner to lease or manage the legal owner's property.

Sec. 3. RCW 77.85.020 and 1998 c 246 s 4 are each amended to read as follows:

~~((Beginning in))~~ (1) By December 1, 2006, December 1, 2008, December 1, 2010, and December 1, 2012, the governor shall submit a ((biennial state of the salmon)) report to the legislature ((during the first week of December)) regarding the implementation of the state's salmon recovery strategy. The report may include the following:

~~((1))~~ (a) A description of the amount of in-kind and financial contributions, including volunteer, private, and state, federal, tribal as available, and local government money directly spent on salmon recovery in response to actual, proposed, or expected endangered species act listings;

~~((2))~~ (b) A summary of habitat projects including but not limited to:

~~((a))~~ (i) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

~~((b))~~ (ii) A summary of salmon restoration efforts undertaken in the past two years;

~~((c))~~ (iii) A summary of the role which private volunteer initiatives contribute in salmon habitat restoration efforts; and

~~((d))~~ (iv) A summary of efforts taken to protect salmon habitat;

~~((e))~~ (c) A summary of collaborative efforts undertaken with adjoining states or Canada;

~~((f))~~ (d) A summary of harvest and hatchery management activities affecting salmon recovery;

~~((g))~~ (e) A summary of information regarding impediments to successful salmon recovery efforts;

~~((h))~~ (f) A summary of the number and types of violations of existing laws pertaining to: ~~((a))~~ (i) Water quality; and ~~((b))~~ (ii) salmon. The summary shall include information about the types of sanctions imposed for these violations;

~~((i))~~ (g) Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998; and

~~((j))~~ (h) Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:

~~((a))~~ (i) The need to expand or improve nonregulatory programs and activities; ~~(and~~

~~(b))~~ (ii) The need to expand or improve state and local laws and regulations; and

(iii) Recommendations for state funding assistance to recovery activities and projects.

(2) The report shall summarize the monitoring data coordinated by the monitoring forum. The summary must include but is not limited to data and analysis related to:

(a) Measures of progress in fish recovery;

(b) Measures of factors limiting recovery as well as trends in such factors; and

(c) The status of implementation of projects and activities.

Sec. 4. RCW 77.85.030 and 2000 c 107 s 93 are each amended to read as follows:

(1) The salmon recovery office is created within the office of the governor to coordinate state strategy to allow for salmon recovery to healthy sustainable population levels with productive commercial and recreational fisheries. The primary purpose of the office is to coordinate and assist in the development of regional salmon recovery plans ~~((for evolutionarily significant units, and submit those plans to the appropriate tribal governments and federal agencies))~~ as an integral part of a statewide strategy developed consistent with the guiding principles and procedures under RCW 77.85.150. The governor's salmon recovery office ~~((may also:~~

~~(a))~~ shall assist regional recovery organizations in submitting plans to the federal fish services for adoption as federal recovery plans. The governor's salmon recovery office may also:

(a) Assist state agencies, local governments, landowners, and other interested parties in obtaining federal assurances that plans, programs, or activities are consistent with fish recovery under the federal endangered species act;

(b) Act as liaison to local governments, the state congressional delegation, the United States congress, federally recognized tribes, and the federal executive branch agencies for issues related to the state's ((endangered species act)) salmon recovery plans; and

~~((b))~~ (c) Provide ((the biennial state of the salmon report to the legislature)) periodic reports pursuant to RCW 77.85.020.

(2) This section expires June 30, ~~((2006))~~ 2015.

Sec. 5. RCW 77.85.040 and 2000 c 107 s 94 are each amended to read as follows:

(1) The governor shall request the national academy of sciences, the American fisheries society, or a comparable institution to screen

candidates to serve as members on the independent science panel. The institution that conducts the screening of the candidates shall submit a list of the nine most qualified candidates to the governor, the speaker of the house of representatives, and the majority leader of the senate. The candidates shall reflect expertise in habitat requirements of salmon, protection and restoration of salmon populations, artificial propagation of salmon, hydrology, or geomorphology.

(2) The speaker of the house of representatives and the majority leader in the senate may each remove one name from the nomination list. The governor shall consult with tribal representatives and the governor shall appoint five scientists from the remaining names on the nomination list.

(3) The members of the independent science panel shall serve four-year terms. Vacant positions on the panel shall be filled in the same manner as the original appointments. Members shall serve no more than two full terms. The independent science panel members shall elect the chair of the panel among themselves every two years. Based upon available funding, the governor's salmon recovery office may contract for services with members of the independent science panel for compensation under chapter 39.29 RCW.

(4) The independent science panel shall be governed by generally accepted guidelines and practices governing the activities of independent science boards such as the national academy of sciences. The purpose of the independent science panel is to help ensure that sound science is used in salmon recovery efforts. The governor's salmon recovery office (~~shall~~) may request review of regional salmon recovery plans by the science review panel. The science panel does not have the authority to review individual projects or habitat project lists developed under RCW 77.85.050(~~(c)~~) or 77.85.060(~~(c) and 75.46.080~~) or to make policy decisions. The panel shall periodically submit its findings and recommendations under this subsection to the legislature and the governor.

~~((5) The independent science panel, in conjunction with the technical review team, shall recommend standardized monitoring indicators and data quality guidelines for use by entities involved in habitat projects and salmon recovery activities across the state.~~

~~(6) The independent science panel, in conjunction with the technical review team, shall also recommend criteria for the systematic and periodic evaluation of monitoring data in order for the state to be able to answer critical questions about the effectiveness of the state's salmon recovery efforts.~~

~~(7) The recommendations on monitoring as required in this section shall be provided in a report to the governor and to the legislature by the independent science panel, in conjunction with the salmon recovery office, no later than December 31, 2000. The report shall also include recommendations on the level of effort needed to sustain monitoring of salmon projects and other recovery efforts, and any other recommendations on monitoring deemed important by the independent science panel and the technical review team. The report may be included in the biennial state of the salmon report required under RCW 77.85.020.)~~

Sec. 6. RCW 77.85.050 and 1999 sp.s. c 13 s 11 are each amended to read as follows:

(1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city,

conservation district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat. ~~((The technical review team may provide the lead entity with organizational models that may be used in establishing the committees.))~~

(c) The committee shall compile a list of habitat projects, establish priorities for individual projects, define the sequence for project implementation, and submit these activities as the habitat project list. The committee shall also identify potential federal, state, local, and private funding sources.

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the ~~((technical review team))~~ board in accordance with procedures adopted by the board.

Sec. 7. RCW 77.85.090 and 2000 c 107 s 99 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) The Puget Sound salmon recovery region is created.

(3) The Yakima basin salmon recovery region is created.

(4) The upper Columbia salmon recovery region is created.

(5) The Snake river salmon recovery region is created.

(6) The legislature, with the assistance of the salmon recovery office, may designate additional salmon recovery regions that are generally consistent with the areas within the state designated by the national oceanic and atmospheric administration or the United States fish and wildlife service for federal recovery planning.

Sec. 8. RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and

wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species; ~~(and)~~

(iv) Will preserve high quality salmonid habitat; and

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding; ~~(and)~~

(iii) Will be implemented by a sponsor with a successful record of project implementation; and

(iv) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

~~(4) (For fiscal year 2000, the board may authorize the interagency review team to evaluate, rank, and make funding decisions for categories of projects or activities or from funding sources provided for categories of projects or activities. In delegating such authority the board shall consider the review team's staff resources, procedures, and technical capacity to meet the purposes and objectives of this chapter. The board shall maintain general oversight of the team's exercise of such authority.~~

~~(5) The board shall seek the guidance of the technical review team to ensure that scientific principles and information are incorporated into the allocation standards and into proposed projects and activities. If the technical review team determines that a habitat project list complies with the critical pathways methodology under RCW 77.85.060, it shall provide substantial weight to the list's project priorities when making determinations among applications for funding of projects within the area covered by the list.~~

~~(6)) The board shall establish criteria for determining when block grants may be made to a lead entity ~~(or other recognized regional recovery entity)~~ consistent with one or more habitat project lists developed for that region. Where a lead entity has been established pursuant to RCW 77.85.050, the board may provide block grants to the lead entity to assist in ~~(carrying out lead entity functions under this chapter;)~~ project implementation subject to available funding. The board shall determine an equitable minimum amount of project implementation funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter.~~

~~((7))~~ (5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

~~((8))~~ (6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not

include a project required solely as a mitigation or a condition of permitting.

~~((9))~~ (7) The board may condition a grant or loan to include the requirement that property may only be transferred to a federal agency if the agency that will acquire the property agrees to comply with all terms of the grant or loan to which the project sponsor was obligated. Property acquired or improved by a project sponsor may be conveyed to a federal agency, but only if the agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated.

Sec. 9. RCW 77.85.150 and 1999 sp.s. c 13 s 9 are each amended to read as follows:

(1) ~~(By September 1, 1999;)~~ The governor, with the assistance of the salmon recovery office, shall ~~((submit a statewide salmon recovery strategy to the appropriate federal agencies administering the federal endangered species act))~~ maintain and revise a statewide salmon recovery strategy.

(2) The governor and the salmon recovery office shall be guided by the following considerations in ~~((developing))~~ maintaining and revising the strategy:

(a) The strategy should identify statewide initiatives and responsibilities with regional recovery plans and local watershed initiatives as the principal ~~((mechanism))~~ means for implementing the strategy;

(b) The strategy should emphasize collaborative, incentive-based approaches;

(c) The strategy should address all factors limiting the recovery of Washington's listed salmon stocks, including habitat and water quality degradation, harvest and hatchery management, inadequate streamflows, and other barriers to fish passage. Where other limiting factors are beyond the state's jurisdictional authorities to respond to, such as some natural predators and high seas fishing, the strategy shall include the state's requests for federal action to effectively address these factors;

(d) The strategy should identify immediate actions necessary to prevent extinction of a listed salmon stock, establish performance measures to determine if restoration efforts are working, recommend effective monitoring and data management, and recommend to the legislature clear and certain measures to be implemented if performance goals are not met;

(e) The strategy shall rely on the best scientific information available and provide for incorporation of new information as it is obtained;

(f) The strategy should seek a fair allocation of the burdens and costs upon economic and social sectors of the state whose activities may contribute to limiting the recovery of salmon; and

(g) The strategy should seek clear measures and procedures from the appropriate federal agencies for removing Washington's salmon stocks from listing under the federal act.

(3) Beginning on September 1, 2000, the strategy shall be updated through an active public involvement process, including early and meaningful opportunity for public comment. In obtaining public comment, the salmon recovery office shall hold public meetings throughout the state and shall encourage regional and local recovery planning efforts to similarly ensure an active public involvement process.

(4) This section shall apply prospectively only and not retroactively. Nothing in this section shall be construed to invalidate actions taken in recovery planning at the local, regional, or state level prior to July 1, 1999.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 77.85.070 (Technical advisory groups) and 2000 c 107 s 97 & 1998 c 246 s 10; and

(2) RCW 77.85.210 (Monitoring activities--Monitoring oversight committee--Legislative steering committee--Report to the legislature--Monitoring strategy and action plan) and 2001 c 298 s 3."

Correct the title.

Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Blake; DeBolt; Dickerson; Eickmeyer; Hunt; Orcutt and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Kretz, Assistant Ranking Minority Member.

Passed to Committee on Appropriations.

March 31, 2005

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.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.82.090 and 2004 c 121 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, financial obligations imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate ~~((applicable to civil judgments))~~ specified in RCW 4.56.110(4). All nonrestitution interest retained by the court shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts. The rate of interest specified in this subsection applies to the accrual of interest as of the date of entry of judgment with respect to a judgment that is entered on or after the effective date of this act, and applies to the accrual of interest as of the effective date of this act with respect to a judgment that was entered before the effective date of this act and is still accruing interest on the effective date of this act.

(2) The court may, on motion by the offender, following the offender's release from total confinement, reduce or waive the interest on legal financial obligations levied as a result of a criminal conviction. The court may reduce or waive the interest only as an incentive for the offender to meet his or her legal financial obligations. The court may not waive the interest on the restitution portion of the legal financial obligation and may only reduce the interest on the restitution portion of the legal financial obligation if the principal of the restitution has been paid in full. The offender must show that he or she has personally made a good faith effort to

pay, that the interest accrual is causing a significant hardship, and that he or she will be unable to pay the principal and interest in full and that reduction or waiver of the interest will likely enable the offender to pay the full principal and any remaining interest thereon. For purposes of this section, "good faith effort" means that the offender has either (a) paid the principal amount in full; or (b) made twenty-four consecutive monthly payments, excluding any payments mandatorily deducted by the department of corrections, on his or her legal financial obligations under his or her payment agreement with the court. The court may grant the motion, establish a payment schedule, and retain jurisdiction over the offender for purposes of reviewing and revising the reduction or waiver of interest. This section applies to persons convicted as adults or in juvenile court.

Sec. 2. RCW 4.56.110 and 2004 c 185 s 2 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) Judgments founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities, shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(4) Legal financial obligations imposed in judgments pertaining to offenders referred to in RCW 10.82.090 shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted in the month of December immediately preceding the date of entry. The interest rate on all judgments for legal financial obligations of offenders referred to in RCW 10.82.090 shall be readjusted annually on the first day of January of each year to reflect the interest rate based upon the first bill market auction held each preceding December, and shall accrue at that rate during the succeeding calendar year.

(5) Except as provided under subsections (1), (2), ~~((and))~~ (3), and (4) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. ~~((The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.))~~"

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

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

Passed to Committee on Appropriations.

March 30, 2005

ESSB 5620 Prime Sponsor, Senate Committee on Government Operations & Elections: Providing for priority consideration for lands used as buffers in planning. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

On page 2, beginning on line 12, strike all of subsection (d)

Reletter the remaining subsection consecutively.

Signed by Representatives Simpson, Chairman; Clibborn, Vice Chairman; Takko and Woods.

MINORITY recommendation: Do not pass. Signed by Representatives Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5621 Prime Sponsor, Senator McAuliffe: Requiring the superintendent of public instruction to adopt standards for voluntary certification of preschools. 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. (1) The legislature finds that the early years of a child's life are a time of enormous growth. The legislature further finds that when parents choose to provide early educational opportunities for their children in public or private preschools, parents should have the tools to help find high-quality programs for their children that will help their students be ready to go to school.

(2) The legislature intends to establish a voluntary certification process for the child development and educational program offerings of public and nonpublic preschool programs. The purpose of the voluntary certification is to give parents and other consumers of preschool programs the ability to evaluate the educational quality of the preschool program including the program's ability to prepare the child for kindergarten.

NEW SECTION. Sec. 2. The Washington early learning council, created in Engrossed Second Substitute House Bill No. 1152, shall develop standards and procedures for the voluntary certification of public and nonpublic preschool child development and educational programs. The standards at a minimum should outline essential components, including, but not limited to, the following categories: School-home relationships; class size and teacher-student ratios; standards for teachers and staff; specification of pedagogical goals, content, and methods, consistent with early learning development benchmarks developed in Washington; and methods for monitoring quality. The council shall also develop strategies to encourage preschool programs to apply for certification.

NEW SECTION. Sec. 3. The Washington early learning council, created in Engrossed Second Substitute House Bill No. 1152, shall make recommendations to the governor and the appropriate committees of the legislature concerning implementation of the standards and procedures for the voluntary certification, under section 2 of this act, of public and nonpublic preschool child development and educational programs, which shall include the following:

(1) Identification of an appropriate state agency to implement the standards and procedures for voluntary certification;

(2) A mechanism for making the list of certified preschool programs widely available to the public; and

(3) A mechanism for any program that meets the definition of nursery school or kindergarten under RCW 74.15.020(2)(g) and is not required to be licensed under chapter 74.15 RCW to annually file its business name, name of the business owner, address, and phone number with the state."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Darneille; Dickerson and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dunn and Haler

Passed to Committee on Appropriations.

March 31, 2005

SB 5625 Prime Sponsor, Senator Kohl-Welles: Regarding gender equity reporting. Reported by Committee on Higher 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; Jarrett; Ormsby; Priest; Roberts and Sommers.

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5631 Prime Sponsor, Senate Committee on Human Services & Corrections: Changing provisions

relating to inmate work programs. 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 72.09.100 and 2004 c 167 s 3 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the correctional industries board of directors, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the correctional industries board of directors to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

(a) The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

(b) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(c) The correctional industries board of directors shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(d) The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

(e) Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(f) An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES.

(a) Industries in this class shall be state-owned and operated enterprises designed primarily to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations.

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies(~~(, to)~~);

(B) Nonprofit organizations(~~(, and to)~~);

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department of corrections; and

(E) A person under the supervision of the department of corrections and his or her immediate family members.

(iii) The correctional industries board of directors shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c)(i) Class II correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors.

(ii) The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus byproducts and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

(d) Security and custody services shall be provided without charge by the department of corrections.

(e) Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

(f) Subject to approval of the correctional industries board, provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department of corrections through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

(a) Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(i) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not

intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(ii) Whenever possible, to provide forty hours of work or work training per week.

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III correctional industries shall be reviewed by the correctional industries board of directors to set policy for work crews. The department shall present to the board of directors quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. The board of directors may review any class III program at its discretion.

(c) Supervising, management, and custody staff shall be employees of the department.

(d) All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

(e) Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

(a) Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

(b) Class IV correctional industries shall be reviewed by the correctional industries board of directors to set policy for work crews. The department shall present to the board of directors quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. The board of directors may review any class IV program at its discretion. Class IV correctional industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

(d) The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

(e) Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

(a) Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community restitution order as ordered by the sentencing court.

(b) Employment shall be in a community restitution program operated by the state, local units of government, or a nonprofit agency.

(c) To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

Sec. 2. RCW 28A.335.190 and 2000 c 138 s 201 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building,

improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of fifteen thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from fifteen thousand dollars up to fifty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of fifty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair, shall be on a competitive bid process. Whenever the estimated cost of a public works project is fifty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

~~((4))~~ (5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

~~((5))~~ (6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

~~((6))~~ (7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195."

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Kagi and Kirby.

MINORITY recommendation: Do not pass. Signed by Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Strow

Passed to Committee on Appropriations.

March 30, 2005

2SSB 5638 Prime Sponsor, Senate Committee on Ways & Means: Changing student assessment provisions. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.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 (11) of this section,))~~ one or more objective alternative assessments for a student to demonstrate achievement of state academic standards, and any appeals process. The objective alternative assessments for each content area shall be ~~((comparable))~~ equivalent 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))~~ implemented pursuant to subsection (11) 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))~~ taken the Washington assessment of student learning ~~((at least))~~ once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement. 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. A student may combine content area results from the Washington assessment of student learning and any subsequent retakes of the assessment and results from any alternative assessments to demonstrate achievement of state academic standards.

(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))~~ 2008, a student's transcript will note whether the student has obtained the certificate of academic achievement or the certificate of individual achievement. In addition, the transcript will note 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) 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) 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)(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)) valid and reliable and equivalent 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 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)) superintendent of public instruction shall provide to the education committees of the legislature an opportunity to review any and all options developed and planned for implementation by January 15th of the school year before the school year planned for implementation.~~

(b) The office of the superintendent of public instruction shall pilot two or more alternative assessments in the 2005-06 school year, with the goal of implementing at least one alternative assessment in the 2006-07 school year. The superintendent of public instruction shall direct school districts to make available for student use any alternative assessments reviewed by the education committees of the legislature and deemed adequate by the superintendent of public instruction for implementation. The implementation shall begin with options that are complete and, to the extent funds are appropriated, the office of the superintendent of public instruction shall continue to develop, pilot, and implement additional alternative assessments. In its development and implementation of alternative assessments, the office of the superintendent of public instruction shall consult with parents, administrators, practicing classroom teachers including teachers in career and technical education, practicing principals, employers, tribal representatives from federally recognized tribes of Washington state and tribes that have signed the Washington state centennial accord, appropriate agencies, professional organizations, assessment experts, and other interested parties.

~~(12) ((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)) The office of the superintendent of public instruction shall develop appeals processes for use by students no later than the 2007-08 school year. The appeals processes shall be developed with criteria that can be consistently applied throughout the state.~~

(13) 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).

(a) Student learning plans are required for eighth through twelfth grade students who ~~((were not successful))~~ did not score the level of proficient or above 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)(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)(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))~~ not proficient, 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))~~ did not score the level of proficient or above 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)(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))~~ not proficient, 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.

(14) Beginning in the 2005-06 school year and every year thereafter, each public high school shall notify students and parents, in the primary language of parents to the extent practicable, of the options under the high school assessment system and any appeals processes for students to demonstrate achievement of the state academic standards.

(15) Beginning in the 2005-06 school year and every year thereafter, each public high school shall notify students and parents, in the primary language of parents to the extent practicable, of the different courses and programs in career and technical education and those offered through area skill centers that provide students the skills and knowledge in those content areas assessed by the high school assessment system and included in the certificate of academic achievement.

Sec. 2. 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~~)) and a notation for each content area in which a student achieved a level four the first time the student took that content area 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."

Correct the title.

Signed by Representatives Quall, Chairman; P. Sullivan, Vice Chairman; Haigh; Hunter; McDermott and Santos.

MINORITY recommendation: Do not pass. Signed by Representatives Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis; Shabro and Tom

Passed to Committee on Appropriations.

March 30, 2005

SSB 5644 Prime Sponsor, Senate Committee on Judiciary: Extending the stay on driver's license suspensions pending entry of a deferred prosecution. 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; Kirby; Serben; Springer; Williams and Wood.

Passed to Committee on Rules for second reading.

March 28, 2005

SSB 5664 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Improving teachers' skills with regard to children with learning differences. 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; Santos; Shabro and Tom.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5672 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Regulating commercial parking businesses. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 2, line 6, after "parking; in a" strike the remainder of the subsection and insert "clearly designated reserved stall or area without permission of the commercial parking business; in a clearly designated stall or area without paying the posted parking charge or without paying a sufficient parking charge for the length of time the vehicle is parked; in more than one clearly designated stall simultaneously without paying the appropriate parking charge for each clearly designated stall; in a clearly designated stall or area during event parking without paying the event parking rate; or in a clearly designated stall or area without paying the parking charge provided in, or otherwise without complying with, the terms of an agreement between the parking customer and the commercial parking business."

On page 5, line 11, after "fee" strike "and the date or dates" and insert ", the date or dates, and the specific times"

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

"NEW SECTION. Sec. 6. The attorney general shall monitor consumer complaints related to private commercial parking businesses, collection agencies, and charges and fees assessed by such businesses and agencies. The attorney general shall report such consumer complaints which were received by the attorney general in the previous year to the house commerce and labor committee and the senate labor, commerce, research and development committee."

Renumber the remaining section consecutively.

On page 7, line 1, after "through" strike "5" and insert "6"

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Hudgins

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5692 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Regulating tax refund anticipation loans. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This chapter may be known and cited as the tax refund anticipation loan act.

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

(1) "Borrower" means a taxpayer who receives the proceeds of a refund anticipation loan.

(2) "Department" means the department of financial institutions.

(3) "Director" means the director of the department of financial institutions.

(4) "Facilitator" means a person who receives or accepts for delivery an application for a refund anticipation loan, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan. "Facilitator" does not include a bank, thrift, savings association, industrial bank, or credit union operating under the laws of the United States or this state, an affiliate that is a servicer for such an entity, or any person who acts solely as an intermediary and does not deal with a taxpayer in the making of the refund anticipation loan.

(5) "Lender" means a person who extends credit to a borrower in the form of a refund anticipation loan.

(6) "Person" means an individual, a firm, a partnership, an association, a corporation, or other entity.

(7) "Refund anticipation loan" means a loan borrowed by a taxpayer from a lender based on the taxpayer's anticipated federal income tax refund.

(8) "Refund anticipation loan fee" means the charges, fees, or other consideration imposed by the lender for a refund anticipation loan. This term does not include any charge, fee, or other consideration usually imposed by the facilitator in the ordinary course of business for nonloan services, such as fees for tax return preparation and fees for electronic filing of tax returns.

(9) "Refund anticipation loan fee schedule" means a listing or table of refund anticipation loan fees charged by the facilitator or the lender for three or more representative refund anticipation loan amounts. The schedule shall list separately each fee or charge imposed, as well as a total of all fees imposed, related to the making of refund anticipation loans. The schedule shall also include, for each representative loan amount, the estimated annual percentage rate calculated under the guidelines established by the federal truth in lending act, 15 U.S.C. Sec. 1601 et seq.

(10) "Taxpayer" means an individual who files a federal income tax return.

NEW SECTION. Sec. 3. (1) No person may individually, or in conjunction or cooperation with another person, solicit the execution of, process, receive, or accept an application or agreement for, a refund anticipation loan without first being registered with the director as a facilitator.

(2) This section does not apply to a person doing business as a bank, thrift, industrial bank, savings and loan association, or credit union, under the laws of the United States or any state.

(3) This chapter shall preempt and be exclusive of all local acts, statutes, ordinances, and regulations relating to refund anticipation loans. This subsection shall be given retroactive and prospective effect.

NEW SECTION. Sec. 4. (1) No facilitator may individually, or in conjunction or cooperation with another person, solicit the

execution of, process, receive, or accept an application or agreement for, a refund anticipation loan without being accepted by the internal revenue service as an authorized IRS e-file provider.

(2) On or before December 31st of each year, a facilitator shall register with the department by providing the department with:

(a) A list of individuals that have been accepted by the internal revenue service as authorized IRS e-file providers for the current tax filing year;

(b) A list of the electronic filing identification numbers issued to the facilitator by the internal revenue service; and

(c) A five-dollar processing fee for each authorized e-file provider on the list.

(3) After the December 31st deadline, a facilitator may, with the approval of the department amend the registration required in subsection (2) of this section to reflect additions or deletions of office locations or electronic filing identification numbers issued by the internal revenue service.

(4) The department shall make available to the public a list of all facilitators registered under this section. The electronic filing identification numbers required under subsection (2) of this section shall be kept confidential and are not subject to public disclosure under chapter 42.17 RCW.

NEW SECTION. Sec. 5. (1) For all refund anticipation loans, a facilitator must provide a clear disclosure statement to the borrower, prior to the borrower's completion of the application. The disclosure statement required under this subsection must be printed in a minimum of ten-point type. Further, the disclosure statement must contain the following:

(a) The refund anticipation loan fee schedule; and

(b) A written statement containing the following elements:

(i) That a refund anticipation loan is a loan, and is not the borrower's actual income tax refund;

(ii) That the taxpayer can file an income tax return electronically without applying for a refund anticipation loan;

(iii) The average times according to the internal revenue service within which a taxpayer who does not obtain a refund anticipation loan can expect to receive a refund if the taxpayer's return is (A) filed electronically and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer, and (B) mailed to the internal revenue service and the refund is directly deposited to the taxpayer's bank account or mailed to the taxpayer;

(iv) That the internal revenue service does not guarantee that it will pay the full amount of the anticipated refund and it does not guarantee a specific date that a refund will be deposited into a taxpayer's financial institution account or mailed to a taxpayer;

(v) That the borrower is responsible for repayment of the loan and related fees in the event that the tax refund is not paid or paid in full;

(vi) The estimated time within which the loan proceeds will be paid to the borrower if the loan is approved; and

(vii) The fee that will be charged, if any, if the borrower's loan is not approved.

(2) The following additional information must be provided to the borrower of a refund anticipation loan before consummation of the loan transaction:

(a) The estimated total fees for obtaining the refund anticipation loan; and

(b) The estimated annual percentage rate for the borrower's refund anticipation loan, using the guidelines established under the federal truth in lending act (15 U.S.C. Sec. 1601 et seq.).

NEW SECTION. Sec. 6. A borrower may rescind a loan, on or before the close of business on the next day of business at the location where the loan was originated, by returning the principal in cash or the original check disbursed by the facilitator to fund the refund anticipation loan. The facilitator may not charge the borrower a fee for rescinding the loan or a refund anticipation loan fee if the loan is rescinded but may charge the borrower the administrative cost of establishing a bank account to electronically receive the refund. The facilitator shall conspicuously disclose to the borrower this right of rescission in writing in the disclosure statement required under section 5(1) of this act.

NEW SECTION. Sec. 7. It is unlawful for a facilitator of a refund anticipation loan to engage in any of the following activities:

- (1) Misrepresent a material factor or condition of a refund anticipation loan;
- (2) Fail to process the application for a refund anticipation loan promptly after the consumer applies for the loan;
- (3) Engage in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with a refund anticipation loan;
- (4) Arrange for a creditor to take a security interest in any property of the consumer other than the proceeds of the consumer's tax refund to secure payment of the loan;
- (5) Offer a refund anticipation loan that exceeds the amount of the anticipated tax refund less fees;
- (6) Act as a facilitator unless they are authorized as an electronic return originator by the internal revenue service at the time; and
- (7) Arrange for a refund anticipation loan unless the facilitator is a tax preparer or works for a person that engages in the business of tax preparation.

NEW SECTION. Sec. 8. Any person who knowingly and willfully violates this chapter is guilty of a misdemeanor and shall be fined up to five hundred dollars for each offense.

NEW SECTION. Sec. 9. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 10. The director may adopt rules to implement section 4 of this act.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

Correct the title.

Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse; O'Brien; Santos; Serben; Simpson; Straw and Williams.

Passed to Committee on Rules for second reading.

ESSB 5699 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Preventing and controlling aquatic invasive species and algae. 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 aquatic invasive species and freshwater aquatic algae are causing economic, environmental, and public health problems that affect the citizens and aquatic resources of our state. Many highly destructive species, such as the zebra mussel, are currently not found in Washington's waters and efforts should be made to prevent the introduction or spread of these aquatic invasive species into our state waters. Preventing new introductions is significantly less expensive and causes far less ecological damage than trying to control new infestations.

The legislature also finds that freshwater algae, particularly blue-green algae, are also seriously degrading the water quality and recreational value of a number of our lakes. Blue-green algae can produce toxins that inhibit recreational uses and pose a threat to humans and pets.

It is therefore the intent of the legislature to clarify the roles of the different state agencies involved in these issues in order to address the threat of aquatic invasive species and the problem caused by aquatic freshwater algae, and to provide a dedicated fund source to prevent and control further impacts.

Sec. 2. RCW 88.02.050 and 2002 c 286 s 13 are each amended to read as follows:

(1) Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. ((In addition, two))

(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:

(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the following fiscal year.

(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in section 3 of this act.

(c) One dollar must be deposited into the freshwater aquatic algae control account created in section 4 of this act.

(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in section 5 of this act.

(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the ((two-dollar derelict vessel)) five-dollar fee created in subsection (2) of this section.

(4) Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for

each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

(5) The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee, excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational watercraft. Funds must be expended as follows:

(a) To inspect watercraft, watercraft trailers, and outboard motors at selected boat launching sites;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by marine recreational watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan.

(3) The department shall provide training to Washington state patrol employees working at port of entry weigh stations on how to inspect recreational watercraft for the presence of zebra mussels and other aquatic invasive species. The department shall also

cooperatively work with the Washington state patrol to set up random check stations to inspect watercraft at areas of high boating activity.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 4. A new section is added to chapter 43.21A RCW to read as follows:

(1) The freshwater aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the freshwater aquatic algae control account may be appropriated to the department to develop a freshwater aquatic algae control program. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies to manage excessive freshwater algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and

(b) To provide technical assistance to applicants and the public about aquatic algae control.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 5. A new section is added to chapter 43.43 RCW to read as follows:

(1) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from RCW 88.02.050 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species enforcement account may be appropriated to the Washington state patrol to develop an aquatic invasive species enforcement program for recreational watercraft. Funds must be expended as follows:

(a) To inspect recreational watercraft that are required to stop at port of entry weigh stations managed by the Washington state patrol. The watercraft must be inspected for the presence of zebra mussels and other aquatic invasive species; and

(b) To establish random check stations, in conjunction with the department of fish and wildlife, to inspect watercraft in areas of high boating activity.

(3) The Washington state patrol shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of this act. The first report is due December 1, 2007.

NEW SECTION. Sec. 6. Section 2 of this act applies to vessel registration fees that are due or become due on or after August 1, 2005.

NEW SECTION. Sec. 7. Section 2 of this act expires June 30, 2012."

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.

March 30, 2005

SSB 5702 Prime Sponsor, Senate Committee on Ways & Means: Creating the Dan Thompson memorial developmental disabilities community trust account. Reported by Committee on Capital Budget

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 71A.20 RCW to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study of the division of developmental disabilities residential habilitation centers at Lakeland Village, Yakima Valley school, and Rainier school that would not impact current residential habilitation center operations must be deposited into the account. Income may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property. "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility. "Proceeds" include the net receipts from the use of all or a portion of the properties. Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

(2) The department shall report on its efforts and strategies to provide income to the developmental disabilities community trust account from the excess property identified in subsection (1) of this section from the lease of the property, sale of timber, or other activity short of sale of the property. The department shall report by June 30, 2006.

(3) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account.

Sec. 2. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest

earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state

employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

Sec. 3. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest

earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the

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(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

Sec. 4. RCW 43.84.092 and 2004 c 242 s 60 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest

earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the

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(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

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

Sec. 5. RCW 72.01.140 and 1981 c 238 s 1 are each amended to read as follows:

The secretary shall:

(1) Make a survey, investigation, and classification of the lands connected with the state institutions under his control, and determine which thereof are of such character as to be most profitably used for agricultural, horticultural, dairying, and stock raising purposes, taking into consideration the costs of making them ready for cultivation, the character of the soil, its depth and fertility, the number of kinds of

crops to which it is adapted, the local climatic conditions, the local annual rainfall, the water supply upon the land or available, the needs of all state institutions for the food products that can be grown or produced, and the amount and character of the available labor of inmates at the several institutions;

(2) Establish and carry on suitable farming operations at the several institutions under his control;

(3) Supply the several institutions with the necessary food products produced thereat;

(4) Exchange with, or furnish to, other institutions, food products at the cost of production;

(5) Sell and dispose of surplus food products produced.

~~((This section shall not apply to the Rainier school for which cognizance of farming operations has been transferred to Washington State University by RCW 72.01.142.))~~

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(3) RCW 28B.30.820 (Dairy/forage and agricultural research facility--Transfer of property and facilities for) and 1981 c 238 s 3; and

(4) RCW 72.01.142 (Transfer of dairy operation from Rainier school) and 1981 c 238 s 2.

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, except for section 3 of this act which takes effect July 1, 2005, and section 4 of this act which takes effect July 1, 2006.

NEW SECTION. Sec. 8. (1) Section 2 of this act expires July 1, 2005.

(2) Section 3 of this act expires July 1, 2006."

Correct the title.

Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Cox; Eickmeyer; Ericks; Ericksen; Flannigan; Green; Hasegawa; Holmquist; Kretz; Kristiansen; Lantz; McCune; Moeller; Morrell; O'Brien; Roach; Serben; Springer and Strow.

MINORITY recommendation: Do not pass. Signed by Representatives Chase

Passed to Committee on Rules for second reading.

March 31, 2005

SB 5705 Prime Sponsor, Senator Rockefeller: Avoiding fragmentation in bargaining units for classified school employees. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Sump,

Assistant Ranking Minority Member; Crouse; Hudgins and McCoy.

Passed to Committee on Rules for second reading.

March 31, 2005

SB 5707 Prime Sponsor, Senator Fraser: Creating a women's history consortium. Reported by Committee on Appropriations

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

Passed to Committee on Rules for second reading.

March 29, 2005

SSB 5708 Prime Sponsor, Senator Senate Committee on Health & Long-Term Care: Regarding the administration of epinephrine by emergency medical technicians. 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 18.73.250 and 2001 c 24 s 1 are each amended to read as follows:

(1) All of the state's ambulance and aid services shall make epinephrine available to their emergency medical technicians in their emergency care supplies. The emergency medical technician may administer epinephrine to a patient ~~((of any age upon the presentation of evidence of a prescription for epinephrine or to a patient under eighteen years of age:~~

~~— (a) Upon the request of the patient or his or her parent or guardian; or~~

~~— (b) Upon the request of a person who presents written authorization from the patient or his or her parent or guardian making such a request)) who is thirty years of age or less. The emergency medical technician may administer epinephrine to a patient who is over thirty years of age only upon the presentation of evidence of a prescription for epinephrine unless evidence of a prescription is not required under the local prehospital patient care protocols.~~

~~(2) ((Any emergency medical technician, emergency medical service, or medical program director acting in good faith and in compliance with the provisions of this section shall not be liable for any civil damages arising out of the furnishing or administration of epinephrine.~~

~~— (3)) Nothing in this section authorizes the administration of epinephrine by a first responder."~~

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Bailey, Ranking Minority Member;

Curtis, Assistant Ranking Minority Member; Alexander; Appleton; Clibborn; Green; Hinkle; Lantz; Moeller; Morrell and Schual-Berke.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5709 Prime Sponsor, Senate Committee on Transportation: Exempting vehicles in inaccessible national recreation areas from license renewal fees. Reported by Committee on Transportation

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

MINORITY recommendation: Do not pass. Signed by Representatives Sells

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5710 Prime Sponsor, Senator Poulsen: Requiring the removal of mercury components from end-of-life motor vehicles. (REVISED FOR ENGROSSED: Concerning the removal of mercury-added components in motor vehicles.) Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Blake; Dickerson; Eickmeyer; Hunt and Williams.

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

Passed to Committee on Appropriations.

March 31, 2005

ESB 5714 Prime Sponsor, Senator Keiser: Establishing an early detection breast and cervical cancer screening program. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

On page 2, line 4, after "available" strike ", and only so long as the current federal funding level continues"

On page 2, line 22, after "health" strike "shall" and insert "may"

On page 2, line 24, after "services." strike "Eligible women shall" and insert "To the extent of available funding, eligible women may"

On page 2, line 33, after "programs." insert the following:

"(5) Enrollment in the early detection breast and cervical cancer screening program shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment in the program. Nothing in this section prevents the department from continuing enrollment in the program if there are adequate private or public funds in addition to those appropriated in the biennial budget to support the cost of such enrollment."

Renumber remaining subsections consecutively and correct any internal references.

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

Passed to Committee on Appropriations.

March 30, 2005

SSB 5717 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Authorizing incentive funds to maintain or increase the number of students in 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; Santos; Shabro and Tom.

Passed to Committee on Appropriations.

March 30, 2005

ESSB 5720 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Placing limitations on employee noncompetition agreements in the broadcasting industry. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5730 Prime Sponsor, Senate Committee on International Trade & Economic Development: Reducing the impact of administrative rules on small businesses. 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; McDermott and Miloscia.

MINORITY recommendation: Without recommendation. Signed by Representatives Hunt

Passed to Committee on Appropriations.

March 30, 2005

ESSB 5732 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Revising the powers, duties, and membership of the state board of education and the Washington professional educator standards board and eliminating the academic achievement and accountability commission. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"PART 1
STATE BOARD OF EDUCATION**

NEW SECTION. **Sec. 101.** The legislature intends to reconstitute the membership of the state board of education prior to June 30, 2006, when the board assumes the duties of the academic achievement and accountability commission.

Sec. 102. RCW 28A.305.100 and 1982 c 160 s 1 are each amended to read as follows:

The state board of education shall annually elect a president and vice president. The superintendent of public instruction shall be an ex officio member and the chief executive officer of the board. As such ex officio member the superintendent shall have the right to vote (~~only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon~~) on all matters before the board. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection.

Sec. 103. RCW 28A.305.130 and 2002 c 205 s 3 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to ~~((teacher,))~~ school administrator ~~((and school specialized personnel))~~ certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for ~~((teachers,))~~ administrators ~~((and educational staff associates,))~~ to reflect research findings and assure continued improvement of preparation programs for ~~((teachers,))~~ administrators ~~((and educational staff associates,))~~.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) of this section, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

~~(4) ((a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.~~

~~(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.~~

~~(5) Supervise the issuance of such certificates as provided for in subsection (1) of this section and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.~~

~~(6)) For purposes of statewide accountability, the board shall:~~

~~(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, as amended. The goals may be established for all students,~~

economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose. The initial performance standards and any changes recommended by the board in the performance standards for the tenth grade assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature. The legislature shall be advised of the initial performance standards and any changes made to the elementary level performance standards and the middle school level performance standards;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be based on the achievement goals established by the legislature and by the board under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index. When determining the baseline year or years for recognizing individual schools, the board may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards. In its deliberations, the board shall consider the use of all statewide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate

intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the board or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system;

(h) Annually report by December 1st to the legislature, the governor, and the superintendent of public instruction on the progress, findings, and recommendations of the board. The report may include recommendations of actions to help improve student achievement; and

(i) Annually report by December 1st to the education committees of the house of representatives and the senate on the progress that has been made in achieving goals adopted by the board.

(5) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board.

~~((7))~~ (6) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

~~((8))~~ (7) Prepare such outline of study for the common schools as the board shall deem necessary, and in conformance with legislative requirements, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

~~((9))~~ (8) Continuously reevaluate courses and other requirements and adopt and enforce regulations within the common schools so as to meet the educational needs of students (~~and~~).

(9) Evaluate course of study requirements and articulate with the institutions of higher education, work force representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts (~~under RCW 28A.315.010 through 28A.315.680 and 28A.315.900~~).

(11) Hear and decide appeals as otherwise provided by law.

~~(The state board of education is given the authority to)~~ (12) Promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

Sec. 104. RCW 28A.300.130 and 1999 c 388 s 401 are each amended to read as follows:

(1) Expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, to the extent funds are appropriated, shall establish the center for the improvement of student learning. The primary purpose of the center is to provide assistance and advice to parents, school board members, educators, and the public regarding strategies for assisting students in learning the essential academic learning requirements pursuant to RCW (~~(28A.630.885)~~) 28A.655.070. The center shall work in conjunction with the (~~academic achievement and accountability commission~~) state board of education, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, in conjunction with other staff in the office of the superintendent of public instruction, shall:

~~(a) ((Serve as a clearinghouse for the completed work and activities of the academic achievement and accountability commission;~~

~~(b))~~ (b) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

~~((c))~~ (b) Provide best practices research and advice that can be used to help schools develop and implement: Programs and practices to improve instruction of the essential academic learning requirements (~~under section 701 of this act~~); systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

~~((d))~~ (c) Develop and distribute (~~in conjunction with the academic achievement and accountability commission~~) parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

~~((e))~~ (d) Identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

~~((f))~~ (e) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

~~((g))~~ (f) Take other actions to increase public awareness of the importance of parental and community involvement in education;

~~((h))~~ (g) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

~~((i))~~ (h) Provide training and consultation services, including conducting regional summer institutes;

~~((j))~~ (i) Address methods for improving the success rates of certain ethnic and racial student groups; and

~~((k))~~ (j) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction ~~(after consultation with the academic achievement and accountability commission,)~~ shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

Sec. 105. RCW 28A.505.210 and 2001 c 3 s 3 are each amended to read as follows:

School districts shall have the authority to decide the best use of student achievement funds to assist students in meeting and exceeding the new, higher academic standards in each district consistent with the provisions of chapter 3, Laws of 2001.

(1) Student achievement funds shall be allocated for the following uses:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators, including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school;

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection.

(2) Annually on or before May 1st, the school district board of directors shall meet at the time and place designated for the purpose of a public hearing on the proposed use of these funds to improve

student achievement for the coming year. Any person may appear or by written submission have the opportunity to comment on the proposed plan for the use of these funds. No later than August 31st, as a part of the process under RCW 28A.505.060, each school district shall adopt a plan for the use of these funds for the upcoming school year. Annually, each school district shall provide to the citizens of their district a public accounting of the funds made available to the district during the previous school year under chapter 3, Laws of 2001, how the funds were used, and the progress the district has made in increasing student achievement, as measured by required state assessments and other assessments deemed appropriate by the district. Copies of this report shall be provided to the superintendent of public instruction ~~(and to the academic achievement and accountability commission).~~

Sec. 106. RCW 28A.655.070 and 2004 c 19 s 204 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement ~~(the accountability recommendations and requests regarding assistance, rewards, and recognition of the academic achievement and accountability commission)~~ assistance and recognition activities related to improving academic achievement as authorized.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the Washington assessment of student learning and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the Washington assessment of student learning.

(3) ~~(In consultation with the academic achievement and accountability commission,)~~ The superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system shall include a variety of assessment methods, including criterion-referenced and performance-based measures.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5)(a) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(b) Assessments measuring the essential academic learning requirements in the content area of science shall be available for mandatory use in middle schools and high schools by the 2003-04 school year and for mandatory use in elementary schools by the 2004-05 school year unless the legislature takes action to delay or prevent implementation of the assessment.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

Sec. 201. RCW 28A.410.210 and 2000 c 39 s 103 are each amended to read as follows:

The Washington professional educator standards board shall:

(1) Establish policies and practices for the approval of programs of courses, requirements, and other activities leading to educator certification for teacher and educational staff associate certification;

(2) Establish policies and practices for the approval of the character of work required to be performed as a condition of entrance to and graduation from any educator preparation program for teacher and educational staff associate preparation program as provided in subsection (1) of this section;

(3) Establish a list of accredited institutions of higher education of this and other states whose graduates may be awarded educator certificates as teacher or educational staff associate and establish criteria and enter into agreements with other states to acquire reciprocal approval of educator preparation programs and certification, including teacher certification from the national board for professional teaching standards;

(4) Establish policies for approval of nontraditional educator preparation programs;

(5) Conduct a review of educator program approval standards at least every five years, beginning in 2006, to reflect research findings and assure continued improvement of preparation programs for teachers and certificated school specialized personnel;

(6) Specify the types and kinds of educator certificates to be issued and conditions for certification in accordance with subsection (1) of this section and RCW 28A.410.010 and supervise the issuance of such certificates;

(7) Establish prospective educator assessment systems as necessary, including the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240;

(8) Hear and determine educator certification appeals as provided by RCW 28A.410.100;

(9) Apply for and receive federal or other funds on behalf of the state for purposes related to the duties of the board;

(10) Adopt rules under chapter 34.05 RCW that are necessary for the effective and efficient implementation of this chapter;

(11) Submit annual reports and recommendations to the governor, the education and fiscal committees of the legislature, and the superintendent of public instruction concerning the duties and activities of the board;

(12) Maintain data concerning educator preparation programs and their quality, educator certification, educator employment trends and needs, and other data deemed relevant by the board;

(13) Serve as an advisory body to the superintendent of public instruction ((and as the sole advisory body to the state board of education)) on issues related to educator recruitment, hiring, ((preparation, certification including high quality alternative routes to certification;)) mentoring and support, professional growth, retention, governance, ((prospective teacher pedagogy assessment, prospective principal assessment;)) educator evaluation including but not limited to peer evaluation, and revocation and suspension of licensure(;

(2) Submit annual reports and recommendations, beginning December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction concerning duties and activities within the board's advisory capacity. The Washington professional educator standards board shall submit a separate report by December 1, 2000, to the governor, the education and fiscal committees of the

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WASHINGTON PROFESSIONAL EDUCATOR STANDARDS BOARD

legislature, the state board of education, and the superintendent of public instruction providing recommendations for at least two high quality alternative routes to teacher certification. In its deliberations, the board shall consider at least one route that permits persons with substantial subject matter expertise to achieve residency certification through an on-the-job training program provided by a school district; and

~~—(3) Establish the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240).~~

Sec. 202. RCW 28A.410.200 and 2003 1st sp.s. c 22 s 1 are each amended to read as follows:

(1)(a) The Washington professional educator standards board is created, consisting of twenty members to be appointed by the governor to four-year terms and the superintendent of public instruction (~~(, who shall be an ex officio, nonvoting member)~~).

(b) As the four-year terms of the first appointees expire or vacancies to the board occur for the first time, the governor shall appoint or reappoint the members of the board to one-year to four-year staggered terms. Once the one-year to three-year terms expire, all subsequent terms shall be for four years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(c) No person may serve as a member of the board for more than two consecutive full four-year terms.

(d) The governor shall annually appoint the chair of the board from among the teachers and principals on the board. No board member may serve as chair for more than two consecutive years.

(2) Seven of the members shall be public school teachers, one shall be a private school teacher, three shall represent higher education educator preparation programs, four shall be school administrators, two shall be educational staff associates, one shall be a classified employee who assists in public school student instruction, one shall be a parent, and one shall be a member of the public.

(3) Public school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington public school;

(b) Be currently certificated and actively employed in a teaching position; and

(c) Include one teacher currently teaching at the elementary school level, one at the middle school level, one at the high school level, and one vocationally certificated.

(4) Private school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington approved private school; and

(b) Be currently certificated and actively employed in a teaching position in an approved private school.

(5) Appointees from higher education educator preparation programs must include two representatives from institutions of higher education as defined in RCW 28B.10.016 and one representative from an institution of higher education as defined in RCW 28B.07.020(4).

(6) School administrators appointed to the board must:

(a) Have at least three years of administrative experience in a Washington public school district;

(b) Be currently certificated and actively employed in a school administrator position; and

(c) Include two public school principals, one Washington approved private school principal, and one superintendent.

(7) Educational staff associates appointed to the board must:

(a) Have at least three years of educational staff associate experience in a Washington public school district; and

(b) Be currently certificated and actively employed in an educational staff associate position.

(8) Public school classified employees appointed to the board must:

(a) Have at least three years of experience in assisting in the instruction of students in a Washington public school; and

(b) Be currently employed in a position that requires the employee to assist in the instruction of students.

(9) Each major caucus of the house of representatives and the senate shall submit a list of at least one public school teacher. In making the public school teacher appointments, the governor shall select one nominee from each list provided by each caucus. The governor shall appoint the remaining members of the board from a list of qualified nominees submitted to the governor by organizations representative of the constituencies of the board, from applications from other qualified individuals, or from both nominees and applicants.

(10) All appointments to the board made by the governor shall be subject to confirmation by the senate.

(11) The governor shall appoint the members of the initial board no later than June 1, 2000.

(12) In appointing board members, the governor shall consider the diversity of the population of the state.

(13) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(14) The governor may remove a member of the board for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(15) If a vacancy occurs on the board, the governor shall appoint a replacement member from the nominees as specified in subsection (9) of this section to fill the remainder of the unexpired term. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of at least one name submitted by the same caucus that provided the list from which the retiring member was appointed.

(16) Members of the board shall hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes only.

Sec. 203. RCW 28A.410.010 and 2001 c 263 s 1 are each amended to read as follows:

The ~~((state board of education))~~ Washington professional educator standards board shall establish, publish, and enforce rules ~~((and regulations))~~ determining eligibility for and certification of personnel employed in the common schools of this state as teacher or educational staff associate, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The state board of education shall establish, publish, and enforce rules determining eligibility for and certification of personnel employed in the common schools of this state as administrator. The rules of each board shall require that the initial application for

certification shall require a record check of the applicant through the Washington state patrol criminal identification system and through the federal bureau of investigation at the applicant's expense. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The superintendent of public instruction may waive the record check for any applicant who has had a record check within the two years before application. The rules shall permit a holder of a lapsed certificate but not a revoked or suspended certificate to be employed on a conditional basis by a school district with the requirement that the holder must complete any certificate renewal requirements established by the state board of education within two years of initial reemployment.

In establishing rules pertaining to the qualifications of instructors of American sign language the ~~((state))~~ board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules ~~((and regulations))~~ and have the power to issue any certificates or permits and revoke the same in accordance with board rules ~~((and regulations))~~.

Sec. 204. RCW 28A.410.040 and 1992 c 141 s 101 are each amended to read as follows:

The ~~((state board of education))~~ Washington professional educator standards board shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW ~~((28A.305.130(1) and (2)))~~ 28A.410.210. However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

Sec. 205. RCW 28A.410.050 and 1992 c 141 s 102 are each amended to read as follows:

The ~~((state board of education))~~ Washington professional educator standards board shall develop and adopt rules establishing baccalaureate and masters degree equivalency standards for vocational instructors performing instructional duties and acquiring certification after August 31, 1992.

Sec. 206. RCW 28A.410.060 and 1990 c 33 s 407 are each amended to read as follows:

The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education for administrators and the Washington professional educator standards board for teachers and educational staff associates by rule ~~((or regulation))~~ shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational

service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules ~~((and regulations))~~ of the ~~((state board of education))~~ Washington professional educator standards board herein authorized.

Sec. 207. RCW 28A.410.100 and 1992 c 159 s 6 are each amended to read as follows:

Any teacher whose certificate to teach has been questioned under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the ~~((state board of education))~~ Washington professional educator standards board if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the ~~((state board of education))~~ Washington professional educator standards board within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.

Sec. 208. RCW 28A.415.023 and 1997 c 90 s 1 are each amended to read as follows:

(1) Credits earned by certificated instructional staff after September 1, 1995, shall be eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee only if the course content:

(a) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW ~~((28A.320.205))~~ 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(c) Is necessary to obtain an endorsement as prescribed by the ~~((state board of education))~~ Washington professional educator standards board;

(d) Is specifically required to obtain advanced levels of certification; or

(e) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(2) For the purpose of this section, "credits" mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with RCW 28A.415.020.

(3) The superintendent of public instruction shall adopt rules and standards consistent with the limits established by this section for certificated instructional staff.

Sec. 209. RCW 28A.415.060 and 1991 c 155 s 1 are each amended to read as follows:

The ~~((state board of education))~~ Washington professional educator standards board rules for continuing education shall provide that educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education

requirements established by the ~~((state board of education))~~ Washington professional educator standards board.

Sec. 210. RCW 28A.415.205 and 1991 c 238 s 75 are each amended to read as follows:

(1) The Washington state minority teacher recruitment program is established. The program shall be administered by the ~~((state board of education))~~ Washington professional educator standards board. The ~~((state board of education))~~ Washington professional educator standards board shall consult with the higher education coordinating board, representatives of institutions of higher education, education organizations having an interest in teacher recruitment issues, the superintendent of public instruction, the state board for community and technical colleges, the department of employment security, and the work force training and education coordinating board. The program shall be designed to recruit future teachers from students in the targeted groups who are in the ninth through twelfth grades and from adults in the targeted groups who have entered other occupations.

(2) The program shall include the following:

(a) Encouraging students in targeted groups in grades nine through twelve to acquire the academic and related skills necessary to prepare for the study of teaching at an institution of higher education;

(b) Promoting teaching career opportunities to develop an awareness of opportunities in the education profession;

(c) Providing opportunities for students to experience the application of regular high school course work to activities related to a teaching career; and

(d) Providing for increased cooperation among institutions of higher education including community colleges, the superintendent of public instruction, the ~~((state board of education))~~ Washington professional educator standards board, and local school districts in working toward the goals of the program.

Sec. 211. RCW 28A.150.060 and 1990 c 33 s 102 are each amended to read as follows:

The term "certificated employee" as used in RCW 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, shall include those persons who hold certificates as authorized by rule ~~((or regulation))~~ of the state board of education, Washington professional educator standards board, or the superintendent of public instruction.

Sec. 212. RCW 28A.170.080 and 1990 c 33 s 157 are each amended to read as follows:

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

(a) Individual and family counseling, including preventive counseling;

(b) Assessment and referral for treatment;

(c) Referral to peer support groups;

(d) Aftercare;

(e) Development and supervision of student mentor programs;

(f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under ~~((state board of education))~~ Washington professional educator standards board rules adopted pursuant to RCW ~~((28A.305.130))~~ 28A.410.210;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

Sec. 213. RCW 28A.205.010 and 1999 c 348 s 2 are each amended to read as follows:

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the ~~((state board of education))~~ Washington professional educator standards board according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of

the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050.

Sec. 214. RCW 28A.205.050 and 1995 c 335 s 201 are each amended to read as follows:

In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education and Washington professional educator standards board with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules to carry out the purpose and intent of this chapter.

Sec. 215. RCW 28A.405.210 and 1996 c 201 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the state board of education or Washington professional educator standards board, as applicable, for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of

his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 216. RCW 28B.10.140 and 2004 c 60 s 1 are each amended to read as follows:

The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the state board of education and Washington professional educator standards board are required, for any grade, level, department, or position of the public schools of the state.

Sec. 217. RCW 18.118.010 and 1990 c 33 s 553 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of the real estate profession and other business professions which may seek legislation to substantially increase their scope of practice or the level of regulation of the profession, and for the regulation of business professions not licensed or regulated on July 26, 1987: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 26, 1987, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education and Washington professional educator standards board under RCW ~~((28A.305.130))~~ 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 26, 1987; and (e) apply to proposals relating solely to continuing education. The legislature believes that all individuals should be permitted to enter into a business profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall be imposed upon any business profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a business profession for the first time should be reviewed according to the following criteria. A business profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a business profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the business profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

Sec. 218. RCW 18.120.010 and 1990 c 33 s 554 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to July 24, 1983, and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 24, 1983, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or (~~state board of education~~) Washington professional educator standards board under RCW (~~28A.305.130~~) 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 24, 1983. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should

be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after July 24, 1983, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

PART 3 TRANSFER OF POWERS AND DUTIES

NEW SECTION. Sec. 301. (1) Beginning June 30, 2006, the academic achievement and accountability commission is hereby abolished and its powers, duties, and functions are hereby transferred to the state board of education. All references to the director or the academic achievement and accountability commission in the Revised Code of Washington shall be construed to mean the director or the state board of education.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the academic achievement and accountability commission shall be delivered to the custody of the state board of education. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the academic achievement and accountability commission shall be made available to the state board of education. All funds, credits, or other assets held by the academic achievement and accountability commission shall be assigned to the state board of education.

(b) Any appropriations made to the academic achievement and accountability commission shall, on the effective date of this section, be transferred and credited to the state board of education.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the academic achievement and accountability commission shall be continued and acted upon by the state board of education. All existing contracts and obligations shall remain in full force and shall be performed by the state board of education.

(4) The transfer of the powers, duties, and functions of the academic achievement and accountability commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law.

PART 4 MISCELLANEOUS

NEW SECTION. Sec. 401. (1) The education governance task force is established to define what is needed to effectively govern a standards-based, results-driven K-12 education system, to examine the constitutional and statutory history of school governance, and to define what a statewide governance system needs to accomplish and to whom it should be accountable. The task force shall recommend whether a state board of education is necessary, and if so, what its composition and duties should be. It shall also recommend how to divide statewide educational governance responsibilities among the state board, the superintendent of public instruction, and the professional educator standards board.

(2) The task force shall include two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; two members of the senate, one from each major caucus, appointed by the president of the senate; a representative of the governor; and other individuals who may be invited to join the task force by the other task force members.

(3) By December 15, 2005, the task force shall report to the legislative committees on education policy and other interested parties with its recommendations, including proposed legislation, on the appropriate state-level agencies to adopt rules for and implement various statutory education responsibilities.

(4) The task force shall receive staffing support from the house of representatives office of program research and senate committee services.

(5) Members of the task force shall receive travel and per diem as provided in RCW 44.04.120.

NEW SECTION. Sec. 402. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(5) RCW 28A.655.020 (Academic achievement and accountability commission) and 1999 c 388 s 101;

(6) RCW 28A.655.030 (Essential academic learning requirements and assessments--Duties of the academic achievement and accountability commission) and 2004 c 19 s 205, 2002 c 37 s 1, & 1999 c 388 s 102;

(7) RCW 28A.655.900 (Transfer of powers, duties, and functions) and 1999 c 388 s 502; and

(8) RCW 28A.660.901 (Program evaluations--Contingency) and 2004 c 23 s 6 & 2001 c 158 s 8.

Sec. 403. RCW 28A.300.020 and 1996 c 25 s 2 are each amended to read as follows:

The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. However, the superintendent shall employ without undue delay the executive director of the state board of education and other state board of education office assistants and clerical help, appointed by the state board under RCW ((28A.305.110)) 28A.305.130, whose positions are allotted and funded in accordance with moneys appropriated exclusively for the operation of the state board of education. The rate of compensation and termination of any such executive director, state board office assistants, and clerical help shall be subject to the prior consent of the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent or at the pleasure of the superintendent and the state board of education as provided in this section. Expenditures by the superintendent of public instruction for direct and indirect support of the state board of education are valid operational expenditures by and in behalf of the office of the superintendent of public instruction.

Sec. 404. RCW 28A.310.110 and 1990 c 33 s 272 are each amended to read as follows:

Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to chapter 29A.68 RCW ((28A.305.070)).

NEW SECTION. Sec. 405. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 406. Sections 301 and 402 of this act take effect June 30, 2006."

Correct the title.

Signed by Representatives Quall, Chairman; Talcott, Ranking Minority Member; Hunter; McDermott; Santos and Tom.

MINORITY recommendation: Do not pass. Signed by Representatives P. Sullivan, Vice Chairman; Anderson,

Assistant Ranking Minority Member; Curtis; Haigh and Shabro

Committee on State Government Operations & Accountability

Passed to Committee on Appropriations.

MAJORITY recommendation: Do pass as amended.

March 31, 2005

SB 5733 Prime Sponsor, Senator Kline: Concerning mandatory arbitration. Reported by Committee on Judiciary

Strike everything after the enacting clause and insert the following:

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.06.010 and 2002 c 338 s 1 are each amended to read as follows:

In counties with a population of more than one hundred (~~(fifty)~~) thousand, mandatory arbitration of civil actions under this chapter shall be required. In counties with a population of one hundred (~~(fifty)~~) thousand or less, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter.

Sec. 2. RCW 7.06.020 and 1987 c 212 s 101 and 1987 c 202 s 127 are each reenacted and amended to read as follows:

(1) All civil actions, except for appeals from municipal or district courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to (~~(thirty-five)~~) fifty thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.

NEW SECTION. Sec. 3. Section 2 of this act applies to any case in which a notice of arbitrability is filed on or after the effective date of this act."

Correct the title.

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

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 5743 Prime Sponsor, Senate Committee on Government Operations & Elections: Enhancing voter registration recordkeeping. Reported by

"NEW SECTION. Sec. 1. A new section is added to chapter 9.94A RCW to read as follows:

When a person is convicted of a felony, the court shall require the offender to sign a statement acknowledging that his or her right to vote has been lost, that the secretary of state and county auditors are being notified thereof, that his or her voter registration will be canceled in accordance with RCW 29A.08.520, and that voting before restoration of the right to vote under RCW 9.92.066, 9.94A.637, or chapter 9.96 RCW, is a felony under RCW 29A.84.660.

Sec. 2. RCW 29A.08.010 and 2004 c 267 s 102 are each amended to read as follows:

As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes (~~(the applicant's)~~):

- (1) Name(~~(, complete residence)~~);
- (2) Residential address(~~(:)~~);
- (3) Date of birth(~~(:)~~);
- (4) Washington state driver's license number, Washington state identification card, or the last four digits of the applicant's Social Security number(~~(:)~~);
- (5) A signature attesting to the truth of the information provided on the application(~~(:)~~); and
- (6) A check or indication in the box confirming the individual is a United States citizen.

If the individual does not have a driver's license, state identification card, or Social Security number, the registrant must be issued a unique voter registration number (~~(and)~~) in order to be placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

Sec. 3. RCW 29A.08.030 and 2004 c 267 s 104 are each amended to read as follows:

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

(1) "Verification notice" means a notice sent by the county auditor or secretary of state to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration. The verification notice must be designed to include a postage prepaid, preaddressed return form by which the applicant may verify or send information.

(2) "Acknowledgement notice" means a notice sent by nonforwardable mail by the county auditor or secretary of state to a registered voter to acknowledge a voter registration transaction, which can include initial registration, transfer, or reactivation of an inactive registration. An acknowledgement notice may be a voter registration card.

(3) "Confirmation notice" means a notice sent to a registered voter by first class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed ~~((so that the voter may update his or her current residence address))~~ to include a postage prepaid, preaddressed return form by which the registrant may verify the address information.

NEW SECTION. Sec. 4. A new section is added to chapter 29A.08 RCW to read as follows:

When a former felon's voting rights have been restored, the county clerk shall immediately transmit this information to the secretary of state along with information about the county where the conviction occurred and the county that is the last known residence of the former felon. The secretary of state shall maintain such records as a part of the elections data base and shall transmit information about the restoration of the former felon's voting rights to the county auditor where the conviction took place and, if different, the county where the felon was last known to reside.

NEW SECTION. Sec. 5. A new section is added to chapter 29A.08 RCW to read as follows:

(1) The civil right to vote is automatically restored to persons convicted of a felony upon completion of all the requirements of all of their sentences as defined in RCW 9.94A.030.

(2) This section does not impair or alter an offender's ability to obtain a certificate of discharge if eligible under RCW 9.94A.637.

Sec. 6. RCW 29A.08.107 and 2004 c 267 s 106 are each amended to read as follows:

(1) The secretary of state must review the information provided by each voter registration applicant, other than an applicant issued a unique voter registration number under RCW 29A.08.010, to ensure that ~~((either))~~ the driver's license number, state identification card number, or the last four digits of the Social Security number match the information maintained by the Washington department of licensing or the Social Security administration. If a match cannot be made, the secretary of state or county auditor must correspond with the applicant to resolve the discrepancy.

(2) If the applicant fails to respond to any correspondence required in this section to confirm information provided on a voter registration application~~(s)~~ within thirty days, ~~((the secretary of state shall forward the application to the appropriate county auditor for document storage))~~ applicant will not be registered to vote.

(3) Only after the secretary of state has confirmed that an applicant's driver's license number, state identification card number, or the last four digits of the applicant's Social Security number match existing records with the Washington department of licensing or the Social Security administration or determined that the applicant does not have ~~((either))~~ a driver's license number, state identification card number, or Social Security number may the applicant be placed on the official list of registered voters.

(4) All records of applications are public records and must be disclosed upon request.

Sec. 7. RCW 29A.08.110 and 2004 c 267 s 107 are each amended to read as follows:

(1) On receipt of an application for voter registration, the county auditor shall review the application to determine whether the information supplied is complete. An application is considered

complete only if it contains the applicant's name, complete valid residence address, date of birth, and signature attesting to the truth of the information provided and an indication ~~((the license information))~~ that the driver's license number, state identification card number, or Social Security number has been confirmed by the secretary of state. If the applicant does not have a driver's license, state identification card, or Social Security number, the indication that the driver's license number, state identification card number, or Social Security number has been confirmed is not required for the application to be complete. If it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant or is returned as undeliverable ~~((the auditor shall not place))~~, the name of the applicant shall not be placed on the county voter list. If the applicant provides the required verified information, the applicant shall be registered to vote as of the date of mailing of the original voter registration application.

(2) In order to prevent duplicate registration records, all complete voter registration applications must be screened against existing voter registration records in the official statewide voter registration list. If a match of an existing record is found in the official list the record must be updated with the new information provided on the application. If the new information indicates that the voter has changed his or her county of residence, the application must be forwarded to the voter's new county of residence for processing. If the new information indicates that the voter remains in the same county of residence or if the applicant is a new voter the application must be processed by the county of residence.

(3) If the information required in subsection (1) of this section is complete, the applicant is considered to be registered to vote as of the original date of mailing or date of delivery, whichever is applicable. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, an acknowledgement notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable. If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.

(4) If an acknowledgement notice card is properly mailed as required by this section to the address listed by the voter as being the voter's mailing address and the notice is subsequently returned to the auditor by the postal service as being undeliverable to the voter at that address, the auditor shall promptly send the voter a confirmation notice. The auditor shall place the voter's registration on inactive status pending a response from the voter to the confirmation notice.

NEW SECTION. Sec. 8. A new section is added to chapter 29A.08 RCW to read as follows:

No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because of a nontraditional address being used as a residence address. Voters using such an address will be registered and assigned to a precinct based on the location provided. Voters without a traditional address will be registered at the county courthouse, city hall, or other

public building near the area that the voter considers his or her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status if the voter designates a valid mailing address.

For the purposes of this section, "nontraditional address" includes shelters, parks, or other identifiable locations that the voter deems to be his or her residence.

Sec. 9. RCW 29A.08.115 and 2004 c 267 s 108 are each amended to read as follows:

A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a ~~((designee))~~ county auditor at least once weekly. The registration date on such forms will be the date they are received by the secretary of state or county auditor.

Sec. 10. RCW 29A.08.125 and 2004 c 267 s 110 are each amended to read as follows:

(1) Each county auditor shall maintain a computer file containing a copy of each record of all registered voters within the county contained on the official statewide voter registration list for that county.

(2) The secretary of state every quarter shall review and update the records of all registered voters on the official statewide voter registration data base to make additions and corrections.

(3) The computer file must include, but not be limited to, each voter's last name, first name, middle initial, date of birth, residence address, gender, date of registration, applicable taxing district and precinct codes, and the last date on which the individual voted.

(4) The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain all such consecutive dates.

Sec. 11. RCW 29A.08.145 and 2004 c 267 s 113 are each amended to read as follows:

This section establishes a special procedure which an elector may use to register to vote or transfer a voter registration by changing his or her address during the period beginning after the closing of registration for voting at the polls under RCW 29A.08.140 and ending on the fifteenth day before a primary, special election, or general election. A qualified elector in the state may register to vote or change his or her registration address in person in the office of the county auditor of the county in which the applicant resides, or at a voter registration location specifically designated for this purpose by the ~~((county auditor of the county in which the applicant resides))~~ secretary of state, and apply for an absentee ballot for that primary or election. The auditor or registration assistant shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered or transferred voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form.

Sec. 12. RCW 29A.08.210 and 2003 c 111 s 216 are each amended to read as follows:

An applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

- (1) The address of the last former registration of the applicant as a voter in the state;
- (2) The applicant's full name;
- (3) The applicant's date of birth;

(4) The address of the applicant's residence for voting purposes;

(5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;

(6) The sex of the applicant;

(7) The applicant's Washington state driver's license number, Washington state identification card number, or the last four digits of the applicant's Social Security number;

(8) A check box and declaration confirming that the applicant is a citizen of the United States;

~~((8))~~ (9) The applicant's signature; and

~~((9))~~ (10) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations. Flawed applications are public records and must be disclosed upon request.

The application form must also provide a box the applicant may check to indicate that he or she is a member of the armed forces or if he or she will be an overseas voter.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

If the applicant fails to provide the information required for voter registration, the auditor shall send the applicant a verification notice. The auditor shall not register the applicant until the required information is provided. If a verification notice is returned as undeliverable or the applicant fails to respond to the notice within forty-five days, the auditor shall not register the applicant to vote.

The following warning shall appear in a conspicuous place on the voter registration form:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine."

Sec. 13. RCW 29A.08.330 and 2003 c 111 s 224 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the service agent shall ask the following:

- (a) "Are you a United States citizen?"

(b) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration.

If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form and instructions.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

~~((4))~~ (5) Each designated agency shall provide for the voter registration application forms to be collected from each agency office at least once each week. The agency shall then forward the application forms to the secretary of state each week. The secretary of state shall forward the forms to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were received by the secretary of state.

Sec. 14. RCW 29A.08.520 and 2004 c 267 s 126 are each amended to read as follows:

(1) Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a ~~((periodic))~~ quarterly comparison of a list of known felons with the statewide voter registration list. If a person is found on ~~((the department of corrections))~~ a felon list and the statewide voter registration list, the secretary of state or county auditor shall confirm the match through a date of birth comparison and ~~((cancel))~~ suspend the voter registration from the official state voter registration list. The canceling authority shall send ~~((notice of the proposed cancellation))~~ to the person at his or her last known voter registration address a notice of the proposed cancellation and an explanation of the requirements for restoring the right to vote once all terms of sentencing have been completed. If the person does not respond within thirty days, the registration must be canceled.

(2) A certificate of discharge or an order restoring civil rights may be used as proof that a felon has completed all sentencing requirements resulting from the felony conviction for which the certificate was issued.

Sec. 15. RCW 29A.08.651 and 2004 c 267 s 101 are each amended to read as follows:

(1) The office of the secretary of state shall create and maintain a statewide voter registration data base. This data base must be a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(2) The computerized list must serve as the single system for storing and maintaining the official list of registered voters throughout the state.

(3) The computerized list must contain the name and registration information of every legally registered voter in the state.

(4) Under the computerized list, a unique identifier is assigned to each legally registered voter in the state.

(5) The computerized list must be coordinated with other agency data bases within the state, including but not limited to the department of corrections, the department of licensing, ~~((and))~~ the department of health, the Washington state patrol, and the office of the administrator for the courts.

(6) Any election officer in the state, including any local election officer, may obtain immediate electronic access to the information contained in the computerized list.

(7) All voter registration information obtained by any local election officer in the state must be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local officer.

(8) The chief state election officer shall provide support, as may be required, so that local election officers are able to enter information as described in subsection (3) of this section.

(9) The computerized list serves as the official voter registration list for the conduct of all elections.

(10) The secretary of state has data authority on all voter registration data.

(11) The voter registration data base must be designed to accomplish at a minimum, the following:

(a) Comply with the Help America Vote Act of 2002 (P.L. 107-252);

(b) Identify duplicate voter registrations;

(c) Identify suspected duplicate voters;

(d) Screen against the department of corrections, the Washington state patrol, and other appropriate state agency data bases to aid in the cancellation of voter registration of felons;

(e) Provide up-to-date signatures of voters for the purposes of initiative signature checking;

(f) Provide current and accurate voter registration information using information obtained under RCW 29A.08.125;

(g) Provide for a comparison between the voter registration data base and the department of licensing change of address data base;

~~((g))~~ (h) Provide online access for county auditors with the goal of real time duplicate checking and update capabilities; and

~~((h))~~ (i) Provide for the cancellation of voter registration for persons who have moved to other states and surrendered their Washington state drivers' licenses.

Sec. 16. RCW 29A.08.710 and 2004 c 267 s 133 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying: The voter's name, gender, date of birth, voting record, date of registration, and registration number. The address and political jurisdiction of a registered voter are available for public inspection and copying except as provided by chapter 40.24 RCW. No other information from voter registration records or files is available for public inspection or copying.

Sec. 17. RCW 29A.08.775 and 2004 c 267 s 136 are each amended to read as follows:

Only voters who appear on the official statewide voter registration list are eligible to participate in elections. Each county shall maintain a copy of that county's portion of the state list. The county must ensure that data used for the production of poll lists and other lists and mailings done in the administration of each election are ~~((drawn from))~~ the same as the official statewide voter registration list.

Sec. 18. RCW 29A.40.091 and 2004 c 271 s 135 are each amended to read as follows:

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany an absentee ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The larger return envelope must contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope must provide a box the voter may check to indicate that he or she is a member of the armed forces or that he or she is an overseas voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

Sec. 19. RCW 46.20.155 and 2004 c 249 s 7 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or transfer his or her voter registration by asking the following question:

"Do you want to register to vote or transfer your voter registration?"

If the applicant chooses to register or transfer a registration, the agent shall ~~((state))~~ ask the following:

~~(("I would like to remind you that you must be a United States citizen and at least eighteen years of age in order to vote."))~~

(1) "Are you a United States citizen?"

(2) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register to vote or transfer a voter registration.

If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form and instructions.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

NEW SECTION. Sec. 20. RCW 29A.08.155 (Payment for maintenance of electronic records) and 2004 c 267 s 114 & 2003 c 111 s 215 are each repealed.

NEW SECTION. Sec. 21. This act takes effect January 1, 2006."

Correct the title.

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 Appropriations.

March 30, 2005

SB 5744 Prime Sponsor, Senator Haugen: Authorizing county-wide mail ballot elections. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended.

On page 3, after line 2 of the amendment, insert the following:

"NEW SECTION. Sec. 2. The secretary of state shall evaluate available technologies to allow voters the ability to conveniently determine if their mail ballots were received and counted by their county auditor. No later than December 31, 2006, the secretary of state shall submit a report to the legislature outlining available mail ballot tracking technology. The report must include the secretary of state's recommendations on whether such technology should be implemented, and if so, how."

Correct the title.

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

MINORITY recommendation: Do not pass. Signed by Representatives Schindler

Passed to Committee on Rules for second reading.

March 30, 2005

SSB 5752 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Concerning funeral services. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 6, beginning on line 32, after "board" strike all material through "chapter" on line 34, and insert "may recognize licenses issued to funeral directors or embalmers from other states and extend reciprocity to an applicant if the ~~((applicant's qualifications are comparable to the requirements of this chapter))~~ applicant furnishes satisfactory evidence that the applicant holds a valid license issued by another licensing authority recognized by the board as having qualifications for licensure that are substantially equivalent to those required by this chapter on the date of original licensure or licensure with the other licensing authority"

On page 7, line 3, after "board" strike "must" and insert "may"

On page 11, line 22, before "Every" strike "~~((+))~~" and insert "(1)"

On page 11, line 26, before "If" strike "~~((+))~~ (1)" and insert "(a)"

On page 11, line 26, after "by" strike "telephone" and insert "~~((telephone))~~ voice, data, text, electronic, or other similar transmission"

On page 11, line 29, before "At" strike "~~((+))~~ (2)" and insert "(b)"

On page 12, beginning on line 1, strike all material through "director.))" on line 4, and insert "(2) No such funeral director, his or her agent, or his or her employee, shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral director is the same amount as is billed to such funeral director."

On page 64, line 18, after "~~((one year))~~" strike "sixty" and insert "ninety"

On page 67, beginning on line 3, strike all of section 151

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

On page 69, line 3, after "director" strike "~~((or person in charge of interment))~~" and insert "or person ~~((in charge of interment))~~ having the right to control the disposition of the human remains under RCW 68.50.160"

On page 69, line 5, after "director" strike "~~((or person in charge of interment))~~" and insert "or person ~~((in charge of interment))~~ having the right to control the disposition of the human remains under RCW 68.50.160"

On page 71, beginning on line 25, strike all of section 159 and insert the following:

"**Sec. 159.** RCW 70.58.240 and 1961 ex.s. c 5 s 17 are each amended to read as follows:

Each funeral director or person ~~((acting as such))~~ having the right to control the disposition of the human remains under RCW 68.50.160 shall obtain a certificate of death, sign and file the ~~((same))~~ certificate with the local registrar, and secure a burial-transit permit, prior to any permanent disposition of the ~~((body))~~ human remains. He or she shall obtain the personal and statistical particulars required, from the person best qualified to supply them. He or she shall present the certificate to the attending physician or in case the death occurred without any medical attendance, to the proper official for certification for the medical certificate of the cause of death and other particulars necessary to complete the record. He or she shall supply the information required relative to the date and place of disposition and he or she shall sign and present the completed certificate to the local registrar, for the issuance of a burial-transit permit. He or she shall deliver the burial permit to the sexton, or person in charge of the place of burial, before interring the ~~((body))~~ human remains; or shall attach the transit permit to the box containing the corpse, when shipped by any transportation company, and the permit shall accompany the corpse to its destination."

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse; Hudgins and McCoy.

Passed to Committee on Rules for second reading.

March 29, 2005

E2SSB 5763 Prime Sponsor, Senate Committee on Ways & Means: Creating the omnibus treatment of mental and substance abuse disorders act of 2005. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"PART I
GENERAL PROVISIONS**

NEW SECTION. **Sec. 101.** The legislature finds that persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders are

disproportionately more likely to be confined in a correctional institution, become homeless, become involved with child protective services or involved in a dependency proceeding, or lose those state and federal benefits to which they may be entitled as a result of their disorders. The legislature finds that prior state policy of addressing mental health and chemical dependency in isolation from each other has not been cost-effective and has often resulted in longer-term, more costly treatment that may be less effective over time. The legislature finds that a substantial number of persons have co-occurring mental and substance abuse disorders and that identification and integrated treatment of co-occurring disorders is critical to successful outcomes and recovery. Consequently, the legislature intends, within funds specifically appropriated for this purpose, to:

- (1) Establish a process for determining which persons with mental disorders and substance abuse disorders have co-occurring disorders;
- (2) Reduce the gap between available chemical dependency treatment and the documented need for treatment;
- (3) Improve treatment outcomes by shifting treatment, where possible, to evidence-based, research-based, and consensus-based treatment practices and by removing barriers to the use of those practices;
- (4) Expand the authority for and use of therapeutic courts including drug courts, mental health courts, and therapeutic courts for dependency proceedings;
- (5) Improve access to treatment for persons who are not enrolled in medicaid by improving and creating consistency in the application processes, and by minimizing the numbers of eligible confined persons who leave confinement without medical assistance;
- (6) Improve access to inpatient treatment by creating expanded services facilities for persons needing intensive treatment in a secure setting who do not need inpatient care, but are unable to access treatment under current licensing restrictions in other settings;
- (7) Establish secure detoxification centers for persons involuntarily detained as gravely disabled or presenting a likelihood of serious harm due to chemical dependency and authorize combined crisis responders for both mental disorders and chemical dependency disorders on a pilot basis and study the outcomes;
- (8) Slow or stop the loss of inpatient and intensive residential beds and children's long-term inpatient placements and refine the balance of state hospital and community inpatient and residential beds;
- (9) Improve cross-system collaboration including collaboration with first responders and hospital emergency rooms, schools, primary care, developmental disabilities, law enforcement and corrections, and federally funded and licensed programs; and
- (10) Amend existing state law to address organizational and structural barriers to effective use of state funds for treating persons with mental and substance abuse disorders, minimize internal inconsistencies, clarify policy and requirements, and maximize the opportunity for effective and cost-effective outcomes.

NEW SECTION. Sec. 102. (1) The department of social and health services shall explore and report to the appropriate committees of the legislature by December 1, 2005, on the feasibility, costs, benefits, and time frame to access federal medicaid funds for mental health and substance abuse treatment under the following provisions:

- (a) The optional clinic provisions;
- (b) Children's mental health treatment or co-occurring disorders treatment under the early periodic screening, diagnosis, and treatment provisions;

(c) Targeted case management, including a plan for coordination of various case management opportunities under medicaid.

(2) The department shall provide the appropriate committees of the legislature with a clear and concise explanation of the reasons for reducing state hospital capacity and the differences in costs and benefits of treatment in state and community hospital treatment.

(3) The department may not reduce the capacity of either state hospital until at least an equal number of skilled nursing, residential, expanded services facility, or supported housing placements are available in the community to the persons displaced by the capacity reduction.

Mental Health Treatment

NEW SECTION. Sec. 103. A new section is added to chapter 71.05 RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to section 701 of this act and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers and regional support networks who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, shall be subject to contractual penalties established under section 701 of this act.

Sec. 104. RCW 71.05.020 and 2000 c 94 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) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) (~~"County designated mental health professional" means a mental health professional appointed by the county to perform the duties specified in this chapter;~~

~~(7))~~ "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

~~((8))~~ (7) "Department" means the department of social and health services;

~~((9))~~ (8) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapter 70.96A RCW and sections 202 through 216 of this act;

(9) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(10) "Designated mental health professional" means a mental health professional certified by the department per rules adopted by the secretary and employed by or contracted with a regional support network established under chapter 71.24 RCW;

(11) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(12) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(13) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(14) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(15) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(16) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(17) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(18) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(19) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(20) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(21) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(22) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(23) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(24) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or sanitarium), which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(26) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(27) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years of experience in the direct treatment of mentally ill or emotionally disturbed persons under the supervision of a mental health professional. "Psychiatric nurse" also means any other registered nurse who has at least three years of such experience.

(28) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(29) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

~~((27))~~ (30) "Public agency" means any evaluation and treatment facility or institution, ~~or hospital~~~~(-or sanitarium)~~ which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill~~((27))~~, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

~~((28))~~ (31) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(32) "Release" means legal termination of the commitment under the provisions of this chapter;

~~((29))~~ (33) "Resource management services" has the meaning given in chapter 71.24 RCW;

~~((30))~~ (34) "Secretary" means the secretary of the department of social and health services, or his or her designee;

~~((31))~~ (35) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary, who is a licensed independent clinical social worker;

~~((32))~~ (36) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(37) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 105. RCW 71.24.025 and 2001 c 323 s 8 are each amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs ~~(under RCW 71.24.045)~~, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(e).

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Community mental health program" means all mental health services, activities, or programs using available resources.

(6) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(7) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(8) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(10) "Evidence-based practices" means services for people with severe mental illness that have demonstrated positive outcomes in multiple research studies.

(11) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or ~~((individuals))~~ persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

~~((11))~~ (12) "Mental health services" means all services provided by regional support networks and other services provided by the state for the mentally ill.

~~((12))~~ (13) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (4), ~~((17))~~ (21), and ~~((18))~~ (22) of this section.

~~((13))~~ (14) "Regional support network" means a county authority or group of county authorities or other entity recognized by the secretary ~~((that enter into joint operating agreements to contract with the secretary pursuant to this chapter))~~ through a department procurement process.

~~((14))~~ (15) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or

facilities which identify persons who are receiving or who at any time have received services for mental illness.

(16) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes, boarding homes, and adult family homes. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

~~((15))~~ (17) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(18) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(19) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Acutely mentally ill adults and children; (b) chronically mentally ill adults; (c) severely emotionally disturbed children; or (d) seriously disturbed adults determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to ~~((county-))~~ designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

~~((16))~~ (20) "Secretary" means the secretary of social and health services.

~~((17))~~ (21) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

~~((18))~~ (22) "Severely emotionally disturbed child" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct

disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

~~((19))~~ (23) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

~~((20))~~ (24) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(25) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

Sec. 106. RCW 10.77.010 and 2004 c 157 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) ~~("County designated mental health professional" has the same meaning as provided in RCW 71.05.020.~~

~~(5))~~ A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

~~((6))~~ (5) "Department" means the state department of social and health services.

(6) "Designated mental health professional" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(3).

(10) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(12) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the ~~((individual))~~ person being assisted as manifested by prior charged criminal conduct.

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(15) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(16) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(17) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

(18) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(19) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

~~((19))~~ (20) "Secretary" means the secretary of the department of social and health services or his or her designee.

~~((20))~~ (21) "Treatment" means any currently standardized medical or mental health procedure including medication.

~~((21))~~ (22) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Sec. 107. RCW 71.05.360 and 1997 c 112 s 30 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

(a) To present evidence on his or her behalf;

(b) To cross-examine witnesses who testify against him or her;

(c) To be proceeded against by the rules of evidence;

(d) To remain silent;

(e) To view and copy all petitions and reports in the court file.

(9) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.370 (as recodified by this act) or pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.370 (as recodified by this act);

(j) Not to have psychosurgery performed on him or her under any circumstances;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert information, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

Sec. 108. RCW 71.05.215 and 1997 c 112 s 16 are each amended to read as follows:

(1) A person (~~found to be~~) who is gravely disabled or presents a likelihood of serious harm as a result of a mental or chemical dependency disorder or co-occurring mental and chemical dependency disorders has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) (~~The department shall adopt rules to carry out the purposes of this chapter. These rules shall include:~~

~~(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.~~

~~(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication.~~

~~(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW 71.05.370(7), the right to periodic review of the decision to medicate by the medical director or designee.~~

~~(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.~~

~~(e) Documentation in the medical record of the physician's attempt to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.)~~ The physician must attempt to obtain the informed consent of an involuntary committed person prior to administration of antipsychotic medication and document the attempt to obtain consent in the person's medical record with the reasons that antipsychotic medication is necessary.

(3) If an involuntary committed person refuses antipsychotic medications, the medications may not be administered unless the person has first had a hearing by a panel composed of a psychologist, psychiatrist, and the medical director of the facility, none of whom may be involved in the person's treatment at the time of the hearing.

(4) If a majority of the panel determines that there is clear, cogent, and convincing evidence demonstrating that treatment with antipsychotic medications is medically appropriate, that failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment, and that there is no less intrusive course of treatment than medication in the best interest of that person, the person may be medicated, subject to the provisions of subsections (5) through (7) of this section.

(5) Medication ordered pursuant to a decision of the panel may only be continued on an involuntary basis if the panel conducts a second hearing on the written record and a majority of the panel determines that there continues to be clear, cogent, and convincing evidence demonstrating that treatment with antipsychotic medications continues to be medically appropriate, that failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment, and that there is no less intrusive course of treatment than medication in the best interest of that person.

(a) Following the second hearing, involuntary medication with antipsychotic medication may be continued if the treating psychiatrist certifies, not less than every fourteen days, that the medication continues to be medically appropriate and failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment, and that there is no less intrusive course of treatment than medication in the best interest of that person.

(b) No administrative order for involuntary medication may be continued beyond one hundred eighty days, or the next commitment proceeding in the superior court, whichever comes first.

(6) The committed person may appeal the panel's decision to the medical director within twenty-four hours and the medical director must decide the appeal within twenty-four hours of receipt.

(7) The committed person may seek judicial review of the medical director's decision at the next commitment proceeding or by means of an extraordinary writ.

(8) Minutes of the hearing shall be kept and a copy shall be provided to the committed person.

(9) With regard to the involuntary medication hearing, the committed person has the right:

(a) To notice at least twenty-four hours in advance of the hearing that includes the intent to convene the hearing, the tentative diagnosis and the factual basis for the diagnosis, and why the staff believes that medication is necessary;

(b) Not to be medicated between the delivery of the notice and the hearing;

(c) To attend the hearing;

(d) To present evidence, including witnesses, and to cross-examine witnesses, including staff;

(e) To the assistance of a lay assistant, who is not involved in the case and who understands psychiatric issues;

(f) To receive a copy of the minutes of the hearing; and

(g) To appeal the panel's decision to the medical director.

Sec. 109. RCW 71.05.370 and 1997 c 112 s 31 are each amended to read as follows:

(Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of

which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

- ~~— (1) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;~~
- ~~— (2) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;~~
- ~~— (3) To have access to individual storage space for his or her private use;~~
- ~~— (4) To have visitors at reasonable times;~~
- ~~— (5) To have reasonable access to a telephone, both to make and receive confidential calls;~~
- ~~— (6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;~~
- ~~— (7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(2) or the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court of competent jurisdiction)) (1) A court of competent jurisdiction may order that a person involuntarily detained, or committed for inpatient treatment and evaluation or to treatment in a less restrictive alternative pursuant to this chapter be administered antipsychotic medications or the performance of electroconvulsant therapy or surgery pursuant to the following standards and procedures:~~

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered by the court unless the petitioning party proves by clear, cogent, and convincing evidence that ~~((there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective))~~ treatment with antipsychotic medications is medically appropriate, that failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment, and that there is no less intrusive course of treatment than medication or electroconvulsive therapy in the best interest of the person.

(b) The court shall make specific findings of fact concerning: (i) The existence of ~~((one or more compelling state interests))~~ the likelihood of serious harm or substantial deterioration or substantially prolonging the length of involuntary commitment; (ii) the necessity and effectiveness of the treatment; ~~((and))~~ (iii) the person's desires regarding the proposed treatment; and (iv) the best interests of the person.

(c) If the ~~((patient))~~ person is unable to make a rational and informed decision about consenting to or refusing the proposed ~~((treatment))~~ electroconvulsive therapy, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

~~((c))~~ (d) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this ~~((subsection))~~ section. The person has the right:

- (i) To be represented by an attorney;
- (ii) To present evidence;
- (iii) To cross-examine witnesses;
- (iv) To have the rules of evidence enforced;
- (v) To remain silent;

(vi) To view and copy all petitions and reports in the court file; and

(vii) To be given reasonable notice and an opportunity to prepare for the hearing.

(e) The court may appoint a psychiatrist, psychologist within their scope of practice, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, psychologist within their scope of practice, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

~~((d))~~ (f) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

~~((e))~~ (2) Any person detained for a period of greater than ninety days pursuant to RCW 71.05.320~~((2))~~, who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in ~~((RCW 71.05.370(7)))~~ subsection (1) of this section.

~~((f))~~ (3) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order:

(a) Pursuant to RCW 71.05.215~~((2))~~; or

(b) Under the following circumstances:

(i) A person presents an imminent likelihood of serious harm;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to (b) of this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

~~((8))~~ To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

~~((9))~~ (4) No court has the authority to order psychosurgery performed on ~~((him or her))~~ any person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter under any circumstances.

(5) A petition for involuntary medication may be joined with a petition for involuntary treatment.

NEW SECTION. Sec. 110. RCW 71.05.370 is recodified as a new section in chapter 71.05 RCW to be codified in proximity to RCW 71.05.215.

Sec. 111. RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004 c 33 s 2 are each reenacted and amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary

or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the ~~((patient))~~ person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a ~~((county))~~ designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing ~~((outpatient))~~ services to the operator of a ~~((care))~~ facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ "

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation under RCW 71.05.150, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(b) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

~~((a))~~ (i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;

~~((b))~~ (ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;

~~((c))~~ (iii) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;

~~((d))~~ (iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

~~((e))~~ (v) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) ~~(To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.)~~ Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) When a patient would otherwise be subject to the provisions of RCW 71.05.390 and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant

information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(18) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial ~~((or))~~, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 112. RCW 71.05.420 and 1990 c 3 s 113 are each amended to read as follows:

Except as provided in RCW 71.05.425, when any disclosure of information or records is made as authorized by RCW 71.05.390 ~~((through 71.05.410))~~, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed.

Sec. 113. RCW 71.05.620 and 1989 c 205 s 12 are each amended to read as follows:

~~((1)) Informed consent for disclosure of information from court or treatment records to an individual, agency, or organization must be in writing and must contain the following information:~~

- ~~— (a) The name of the individual, agency, or organization to which the disclosure is to be made;~~
- ~~— (b) The name of the individual whose treatment record is being disclosed;~~
- ~~— (c) The purpose or need for the disclosure;~~
- ~~— (d) The specific type of information to be disclosed;~~
- ~~— (e) The time period during which the consent is effective;~~
- ~~— (f) The date on which the consent is signed; and~~
- ~~— (g) The signature of the individual or person legally authorized to give consent for the individual.~~

~~— (2))~~ The files and records of court proceedings under this chapter and chapters ~~((71.05))~~ 70.96A, 71.34, and 70.-- (sections 202 through 216 of this act) RCW shall be closed but shall be accessible to any ~~((individual))~~ person who is the subject of a petition and to the ~~((individual's))~~ person's attorney, guardian ad litem, resource management services, or service providers authorized to receive such information by resource management services.

Sec. 114. RCW 71.05.630 and 2000 c 75 s 5 are each amended to read as follows:

(1) Except as otherwise provided by law, all treatment records shall remain confidential (~~(Treatment records)~~) and may be released only to the persons designated in this section, or to other persons designated in an informed written consent of the patient.

(2) Treatment records of (~~(an individual)~~) a person may be released without informed written consent in the following circumstances:

(a) To (~~(an individual)~~) a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the (~~(individual)~~) person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to (~~(individuals)~~) persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of (~~(individuals)~~) persons who are under the supervision of the department.

(h) To a licensed physician who has determined that the life or health of the (~~(individual)~~) person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive (~~(an individual)~~) a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the (~~(individual)~~) person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record.

(j) Notwithstanding the provisions of RCW 71.05.390(7), to a correctional facility or a corrections officer who is responsible for the supervision of (~~(an individual)~~) a person who is receiving inpatient or outpatient evaluation or treatment. Except as provided in RCW 71.05.445 and 71.34.225, release of records under this section is limited to:

(i) An evaluation report provided pursuant to a written supervision plan.

(ii) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan.

(iii) When (~~(an individual)~~) a person is returned from a treatment facility to a correctional facility, the information provided under (j)(iv) of this subsection.

(iv) Any information necessary to establish or implement changes in the (~~(individual's)~~) person's treatment plan or the level or kind of supervision as determined by resource management services. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only.

(k) To the (~~(individual's)~~) person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW.

(l) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental (~~(illness)~~) disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information shall notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information.

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for (~~(alcoholism or drug)~~) chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

Sec. 115. RCW 71.05.640 and 2000 c 94 s 11 are each amended to read as follows:

(1) Procedures shall be established by resource management services to provide reasonable and timely access to individual treatment records. However, access may not be denied at any time to records of all medications and somatic treatments received by the (~~(individual)~~) person.

(2) Following discharge, the (~~(individual)~~) person shall have a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge all (~~(individuals)~~) persons shall be informed by resource management services of their rights as provided in RCW (~~(71.05.610)~~) 71.05.390 and 71.05.620 through 71.05.690.

Sec. 116. RCW 71.05.660 and 1989 c 205 s 16 are each amended to read as follows:

Nothing in this chapter (~~(205, Laws of 1989)~~ or chapter 70.96A, 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall be construed to interfere with communications between physicians or psychologists and patients and attorneys and clients.

NEW SECTION. Sec. 117. A new section is added to chapter 71.05 RCW to read as follows:

A petition for commitment under this chapter may be joined with a petition for commitment under chapter 70.96A RCW.

PART II PILOT PROGRAMS

NEW SECTION. Sec. 201. Sections 202 through 216 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 202. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

(4) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and

this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

(13) "Designated mental health professional" means a mental health professional certified by the department per rules adopted by the secretary and employed by or contracted with a regional support network established under chapter 71.24 RCW.

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(23) "Judicial commitment" means a commitment by a court under this chapter.

(24) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(25) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts.

(26) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

(28) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(29) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

(31) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

(32) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has, in addition, at least two years' experience in the direct treatment of mentally ill or emotionally disturbed persons under the supervision of a mental health professional. "Psychiatric nurse" also means any other registered nurse who has three years of such experience.

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

(34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or

facilities which identify persons who are receiving or who at any time have received services for mental illness.

(37) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

(38) "Secretary" means the secretary of the department or the secretary's designee.

(39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

(40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary, who is a licensed independent clinical social worker.

(41) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(42) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

NEW SECTION. Sec. 203. (1) The secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to section 220 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

NEW SECTION. Sec. 204. To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(1) Psychiatrist, psychologist, psychiatric nurse, or social worker;

(2) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(3) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(4) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department before July 1, 2001; or

(5) Person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

NEW SECTION. Sec. 205. In addition to the provisions of this chapter, a designated crisis responder has all the powers and duties of a designated mental health professional as well as the powers and duties of a designated chemical dependency specialist under RCW 70.96A.120.

NEW SECTION. Sec. 206. (1)(a) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(b)(i)(A) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court that a person presents as a result of a mental disorder, a likelihood of serious harm, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear within twenty-four hours after service of the order at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period; or

(B) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court, district court, or other

court permitted by court rule, that a person presents as a result of a chemical dependency, a likelihood of serious harm, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear within twenty-four hours after service of the order at a secure detoxification facility or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period.

(ii) The order issued under this subsection (1)(b) shall state the address of the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider to which the person is to report; whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis; and that if the person named in the order fails to appear at the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider at or before the date and time stated in the order, the person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(c) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. The person shall be permitted to remain in his or her home or other place of his or her choosing before the time of evaluation and shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(d) If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider may admit the person as required by subsection (3) of this section or may provide treatment on an outpatient basis. If the person ordered to appear fails to appear on or before the date and time specified, the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider shall immediately notify the designated crisis responder who may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. Should the designated crisis responder notify a peace officer authorizing the officer to take a person into custody under this subsection, the designated crisis responder shall file with the court a copy of the authorization and a notice of detention. At the time the person is taken into custody there shall commence to be served on the person, his or her guardian, and conservator, if any, a copy of the

original order together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) If a designated crisis responder receives information alleging that a person, as the result of:

(a) A mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in this chapter; or

(b) Chemical dependency, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken into emergency custody in a secure detoxification facility for not more than seventy-two hours as described in this chapter.

(3) If the designated crisis responder petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the evaluation and treatment facility, the secure detoxification facility, or other certified chemical dependency provider providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The evaluation and treatment facility, the secure detoxification facility, or other certified chemical dependency provider shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with this chapter. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained so that a probable cause hearing will be held no later than seventy-two hours after detention.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause the person to be taken into custody and immediately delivered to an evaluation and treatment facility, secure detoxification facility, other certified chemical dependency treatment provider only pursuant to subsections (1)(d) and (2) of this section.

(5) Nothing in this chapter limits the power of a peace officer to take a person into custody and immediately deliver the person to the emergency department of a local hospital or to a detoxification facility.

NEW SECTION. Sec. 207. (1) A person or public or private entity employing a person is not civilly or criminally liable for performing duties under this chapter if the duties were performed in good faith and without gross negligence.

(2) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

NEW SECTION. Sec. 208. If the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider admits the person, it may detain the person for

evaluation and treatment for a period not to exceed seventy-two hours from the time of acceptance. The computation of the seventy-two hour period excludes Saturdays, Sundays, and holidays.

NEW SECTION. Sec. 209. Whenever any person is detained for evaluation and treatment for a mental disorder under section 206 of this act, chapter 71.05 RCW applies.

NEW SECTION. Sec. 210. (1) A person detained for seventy-two hour evaluation and treatment under section 206 of this act or RCW 70.96A.120 may be detained for not more than fourteen additional days of involuntary chemical dependency treatment if there are beds available at the secure detoxification facility and the following conditions are met:

(a) The professional person in charge of the agency or facility or the person's designee providing evaluation and treatment services in a secure detoxification facility has assessed the person's condition and finds that the condition is caused by chemical dependency and either results in a likelihood of serious harm or in the detained person being gravely disabled, and the professional person or his or her designee is prepared to testify those conditions are met;

(b) The person has been advised of the need for voluntary treatment and the professional person in charge of the agency or facility or his or her designee has evidence that he or she has not in good faith volunteered for treatment; and

(c) The professional person in charge of the agency or facility or the person's designee has filed a petition for fourteen-day involuntary detention with the superior court, district court, or other court permitted by court rule. The petition must be signed by the chemical dependency professional who has examined the person.

(2) The petition under subsection (1)(c) of this section shall be accompanied by a certificate of a licensed physician who has examined the person, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the licensed physician's findings in support of the allegations of the petition. A physician employed by the petitioning program or the department is eligible to be the certifying physician.

(3) The petition shall state facts that support the finding that the person, as a result of chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that there are no less restrictive alternatives to detention in the best interest of the person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate.

(4) A copy of the petition shall be served on the detained person, his or her attorney, and his or her guardian or conservator, if any, before the probable cause hearing.

(5)(a) The court shall inform the person whose commitment is sought of his or her right to contest the petition, be represented by counsel at every stage of any proceedings relating to his or her commitment, and have counsel appointed by the court or provided by the court, if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him or her regardless of his or her wishes. The person shall, if he or she is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment is sought shall be informed of his or her right to be examined by a licensed physician of his or her choice. If the person is unable to obtain a licensed physician and requests

examination by a physician, the court shall appoint a reasonably available licensed physician designated by the person.

(b) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that the person, as the result of chemical dependency, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interest of such person or others, the court shall order that the person be detained for involuntary chemical dependency treatment not to exceed fourteen days in a secure detoxification facility.

NEW SECTION. Sec. 211. If a person is detained for additional treatment beyond fourteen days under section 210 of this act, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.

NEW SECTION. Sec. 212. The prosecuting attorney of the county in which an action under this chapter is taken must represent the petitioner in judicial proceedings under this chapter for the involuntary chemical dependency treatment of a person, including any judicial proceeding where the person sought to be treated for chemical dependency challenges the action.

NEW SECTION. Sec. 213. (1) Every person involuntarily detained or committed under this chapter as a result of a mental disorder is entitled to all the rights set forth in this chapter and in chapter 71.05 RCW, and retains all rights not denied him or her under this chapter or chapter 71.05 RCW.

(2) Every person involuntarily detained or committed under this chapter as a result of a chemical dependency is entitled to all the rights set forth in this chapter and chapter 70.96A RCW, and retains all rights not denied him or her under this chapter or chapter 70.96A RCW.

NEW SECTION. Sec. 214. (1) When a designated crisis responder is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the designated crisis responder shall evaluate the person within seventy-two hours of release.

(2) When an offender is under court-ordered treatment in the community and the supervision of the department of corrections, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the designated crisis responder of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.

(3) When a designated crisis responder becomes aware that an offender who is under court-ordered treatment in the community and the supervision of the department of corrections is in violation of a treatment order or a condition of supervision that relates to public safety, or the designated crisis responder detains a person under this chapter, the designated crisis responder shall notify the person's treatment provider and the department of corrections.

(4) When an offender who is confined in a state correctional facility or is under supervision of the department of corrections in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify the department of corrections and the department of corrections shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department of corrections classified the offender as a high risk or high needs offender.

(5) Nothing in this section creates a duty on any treatment provider or designated crisis responder to provide offender supervision.

NEW SECTION. Sec. 215. The secretary may adopt rules to implement this chapter.

NEW SECTION. Sec. 216. The provisions of RCW 71.05.550 apply to this chapter.

NEW SECTION. Sec. 217. (1) The Washington state institute for public policy shall evaluate the pilot programs and make a preliminary report to appropriate committees of the legislature by December 1, 2007, and a final report by September 30, 2008.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 218. RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each amended to read as follows:

The department of social and health services, in planning and providing funding to counties pursuant to chapter 71.24 RCW, shall recognize the financial necessities imposed upon counties by implementation of this chapter and chapter 70.-- RCW (sections 202 through 216 of this act), and shall consider needs, if any, for additional community mental health services and facilities and reduction in commitments to state hospitals for the mentally ill accomplished by individual counties, in planning and providing such funding. The state shall provide financial assistance to the counties to enable the counties to meet all increased costs, if any, to the counties resulting from their administration of the provisions of chapter 142, Laws of 1973 1st ex. sess.

NEW SECTION. Sec. 219. Sections 202 through 216 of this act expire July 1, 2008.

NEW SECTION. Sec. 220. A new section is added to chapter 70.96A RCW to read as follows:

(1) The secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to section 203 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency

and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under section 701 of this act;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

(4) This section expires June 30, 2008.

PART III MENTAL HEALTH SERVICES FOR MINORS

Sec. 301. RCW 71.34.042 and 1998 c 296 s 14 are each amended to read as follows:

(1) An evaluation and treatment facility may admit for evaluation, diagnosis, or treatment any minor under thirteen years of age for whom application is made by the minor's parent or guardian. The consent of the minor under the age of thirteen is not required.

(2) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental treatment, without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment.

~~((2))~~ (3) When, in the judgment of the professional person in charge of an evaluation and treatment facility, there is reason to believe that a minor is in need of inpatient treatment because of a mental disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor

in any less restrictive setting or the minor's home, the minor may be admitted to an evaluation and treatment facility.

~~((3))~~ (4) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

Sec. 302. RCW 71.34.052 and 1998 c 296 s 17 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child, age thirteen or older, to an evaluation and treatment facility and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.025, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(7) For the purposes of this section "professional person" does not include a social worker, unless the social worker is certified under RCW 18.19.110 and appropriately trained and qualified by education and experience, as defined by the department, in psychiatric social work.

Sec. 303. RCW 71.34.054 and 1998 c 296 s 18 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child, age thirteen or older, to a provider of outpatient mental health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a mental disorder and is in need of outpatient treatment.

(2) The consent of the minor is not required for evaluation if the parent brings the minor to the provider.

(3) The professional person may evaluate whether the minor has a mental disorder and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under RCW 71.34.042 or 71.34.052 shall be discharged immediately from inpatient treatment upon written request of the parent.

Sec. 304. RCW 71.34.025 and 1998 c 296 s 9 are each amended to read as follows:

(1) The department shall assure that, for any minor admitted to inpatient treatment under RCW 71.34.052, a review is conducted by a physician or other mental health professional who is employed by the department, or an agency under contract with the department, and who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the facility providing the treatment. The physician or other mental health professional shall conduct the review not less than ~~((seven))~~ three nor more than ~~((fourteen))~~ seven days following the date the minor was brought to the facility under RCW 71.34.052 to determine whether it is a medical necessity to continue the minor's treatment on an inpatient basis.

(2) In making a determination under subsection (1) of this section, the department shall consider the opinion of the treatment provider, the safety of the minor, and the likelihood the minor's mental health will deteriorate if released from inpatient treatment. The department shall consult with the parent in advance of making its determination.

(3) If, after any review conducted by the department under this section, the department determines it is no longer a medical necessity for a minor to receive inpatient treatment, the department shall immediately notify the parents and the facility. The facility shall release the minor to the parents within twenty-four hours of receiving notice. If the professional person in charge and the parent believe that it is a medical necessity for the minor to remain in inpatient treatment, the minor shall be released to the parent on the second judicial day following the department's determination ~~((in order to allow the parent time to file an at-risk youth petition under chapter 13.32A RCW))~~. If the department determines it is a medical necessity for the minor to receive outpatient treatment and the minor declines to obtain such treatment, such refusal shall be grounds for the parent to file an at-risk youth petition.

(4) If the evaluation conducted under RCW 71.34.052 is done by the department, the reviews required by subsection (1) of this section shall be done by contract with an independent agency.

(5) The department may, subject to available funds, contract with other governmental agencies to conduct the reviews under this section. The department may seek reimbursement from the parents, their insurance, or medicaid for the expense of any review conducted by an agency under contract.

(6) In addition to the review required under this section, the department may periodically determine and redetermine the medical necessity of treatment for purposes of payment with public funds.

Sec. 305. RCW 71.34.162 and 1998 c 296 s 19 are each amended to read as follows:

Following the review conducted under RCW 71.34.025, a minor child may petition the superior court for his or her release from the facility. ~~((The petition may be filed not sooner than five days following the review.))~~ The court shall release the minor unless it finds, upon a preponderance of the evidence, that it is a medical necessity for the minor to remain at the facility.

Sec. 306. RCW 71.34.270 and 1985 c 354 s 27 are each amended to read as follows:

No public or private agency or governmental entity, nor officer of a public or private agency, nor the superintendent, or professional person in charge, his or her professional designee or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person under this chapter, nor any ~~((county))~~ designated mental health professional, nor professional person, nor evaluation and treatment facility, shall be civilly or

criminally liable for performing his or her duties under this chapter with regard to the decision of whether to admit, release, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

NEW SECTION. Sec. 307. (1) The code reviser shall recodify, as necessary, the following sections of chapter 71.34 RCW in the following order, using the indicated subchapter headings:

- General
 - 71.34.010
 - 71.34.020
 - 71.34.140
 - 71.34.032
 - 71.34.250
 - 71.34.280
 - 71.34.260
 - 71.34.240
 - 71.34.230
 - 71.34.210
 - 71.34.200
 - 71.34.225
 - 71.34.220
 - 71.34.160
 - 71.34.190
 - 71.34.170
 - 71.34.290
 - 71.34.056
 - 71.34.800
 - 71.34.805
 - 71.34.810
 - 71.34.015
 - 71.34.027
 - 71.34.130
 - 71.34.270
- Minor-Initiated Treatment
 - 71.34.042
 - 71.34.044
 - 71.34.046
 - 71.34.030
- Parent-Initiated Treatment
 - 71.34.052
 - 71.34.025
 - 71.34.162
 - 71.34.164
 - 71.34.035
 - 71.34.054
- Involuntary Commitment
 - 71.34.040
 - 71.34.050
 - 71.34.060
 - 71.34.070
 - 71.34.080
 - 71.34.090
 - 71.34.100
 - 71.34.120
 - 71.34.110
 - 71.34.150
 - 71.34.180
- Technical
 - 71.34.900
 - 71.34.901

(2) The code reviser shall correct all statutory references to sections recodified by this section.

PART IV TREATMENT GAP

NEW SECTION. Sec. 401. A new section is added to chapter 70.96A RCW to read as follows:

(1) The division of alcohol and substance abuse shall increase its capacity to serve adults who meet chemical dependency treatment criteria and who are enrolled in medicaid as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(2) The division of alcohol and substance abuse shall increase its capacity to serve minors who have passed their twelfth birthday and who are not yet eighteen, who are under two hundred percent of the federal poverty level as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(3) For purposes of this section, "calculated need" means the percentage of the population under two hundred percent of the federal poverty level in need of chemical dependency services as determined in the 2003 Washington state needs assessment study.

NEW SECTION. Sec. 402. A new section is added to chapter 70.96A RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to section 701 of this act and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers contracted to provide treatment under this chapter who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, are subject to contractual penalties established under section 701 of this act.

NEW SECTION. Sec. 403. A new section is added to chapter 13.34 RCW to read as follows:

The department of social and health services and the department of health shall develop and expand comprehensive services for drug-affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence-based, research-based, or consensus-based practices, as those terms are defined in section 703 of this act, and shall expand capacity in underserved regions of the state.

NEW SECTION. Sec. 404. A new section is added to chapter 70.96A RCW to read as follows:

A petition for commitment under this chapter may be joined with a petition for commitment under chapter 71.05 RCW.

NEW SECTION. Sec. 405. A new section is added to chapter 70.96A RCW to read as follows:

(1) The department of social and health services shall contract for chemical dependency specialist services at each division of

children and family services office to enhance the timeliness and quality of child protective services assessments and to better connect families to needed treatment services.

(2) The chemical dependency specialist's duties may include, but are not limited to: Conducting on-site chemical dependency screening and assessment, facilitating progress reports to department social workers, in-service training of department social workers and staff on substance abuse issues, referring clients from the department to treatment providers, and providing consultation on cases to department social workers.

(3) The department of social and health services shall provide training in and ensure that each case-carrying social worker is trained in uniform screening for mental health and chemical dependency.

PART V RESOURCES

NEW SECTION. Sec. 501. Sections 502 through 525 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 502. The legislature finds that there are persons with mental disorders, including organic or traumatic brain disorders, and combinations of mental disorders with other medical conditions or behavior histories that result in behavioral and security issues that make these persons ineligible for, or unsuccessful in, existing types of licensed facilities, including adult residential rehabilitation centers, boarding homes, adult family homes, group homes, and skilled nursing facilities. The legislature also finds that many of these persons have been treated on repeated occasions in inappropriate acute care facilities and released without an appropriate placement or have been treated or detained for extended periods in inappropriate settings including state hospitals and correctional facilities. The legislature further finds that some of these persons present complex safety and treatment issues that require security measures that cannot be instituted under most facility licenses or supported housing programs. These include the ability to detain persons under involuntary treatment orders or administer court ordered medications.

Consequently, the legislature intends, subject to funds appropriated specifically for this purpose, to establish a new type of facility licensed by the department of social and health services as an enhanced services facility with standards that will provide a safe, secure treatment environment for a limited population of persons who are not appropriately served in other facilities or programs. The legislature also finds that enhanced services facilities may need to specialize in order to effectively care for a particular segment of the identified population.

For the purposes of this chapter, an enhanced services facility is governed by the same provisions in chapter 71.05 RCW as an evaluation and treatment facility, provided that the enhanced services facility will serve only individuals for which it is certified.

NEW SECTION. Sec. 503. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(2) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(3) "Chemical dependency" means alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in chapter 70.96A RCW.

(4) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(5) "Commitment" means the determination by a court that an individual should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(6) "Conditional release" means a modification of a commitment that may be revoked upon violation of any of its terms.

(7) "Custody" means involuntary detention under chapter 71.05 or 70.96A RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(9) "Designated responder" means a designated mental health professional, a designated chemical dependency specialist, or a designated crisis responder as those terms are defined in chapter 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

(10) "Detention" or "detain" means the lawful confinement of an individual under chapter 70.96A or 71.05 RCW.

(11) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(12) "Enhanced services facility" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

(13) "Expanded community services program" means a nonsecure program of enhanced behavioral and residential support provided to long-term and residential care providers serving specifically eligible clients who would otherwise be at risk for hospitalization at state hospital geriatric units.

(14) "Facility" means an enhanced services facility.

(15) "Gravely disabled" means a condition in which an individual, as a result of a mental disorder, as a result of the use of alcohol or other psychoactive chemicals, or both:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(17) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(18) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The individual has threatened the physical safety of another and has a history of one or more violent acts.

(19) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(20) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

(21) "Professional person" means a mental health professional and also means a physician, registered nurse, and such others as may be defined in rules adopted by the secretary pursuant to the provisions of this chapter.

(22) "Psychiatric nurse" means:

(a) A registered nurse who has a bachelor's degree from an accredited college or university and who has had, in addition, at least two years of experience in the direct treatment of mentally ill or emotionally disturbed persons under the supervision of a mental health professional; or

(b) Any other registered nurse who has three years of such experience.

(23) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

(24) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

(25) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify individuals who are receiving or who at any time have received services for mental illness.

(26) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW.

(27) "Resident" means a person admitted to an enhanced services facility.

(28) "Secretary" means the secretary of the department or the secretary's designee.

(29) "Significant change" means:

(a) A deterioration in a resident's physical, mental, or psychosocial condition that has caused or is likely to cause clinical complications or life-threatening conditions; or

(b) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for release or for treatment in a less intensive or less secure setting.

(30) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary, who is a licensed independent clinical social worker.

(31) "Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or chemical dependency education and counseling, medical, psychiatric,

psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to persons with mental disorders, chemical dependency disorders, or both, and their families.

(32) "Treatment records" include registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by an individual providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(33) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

NEW SECTION. Sec. 504. A facility shall honor an advance directive including a mental health advance directive that was validly executed pursuant to chapter 71.32 RCW.

NEW SECTION. Sec. 505. (1) An individual is not eligible for admission to an enhanced services facility if his or her treatment needs can be adequately addressed in an adult residential rehabilitation center, a boarding home, an adult family home, a group home, a nursing home, or a supported housing program, including an expanded community services program or a program for assertive community treatment.

(2) A person who is eligible for admission to or residence in an adult residential rehabilitation center, a boarding home, a group home, a skilled nursing facility, or a supported housing program, including an expanded community services program or a program for assertive community treatment is not eligible for residence in an enhanced services facility unless his or her treatment needs cannot adequately be addressed in the other facility or facilities for which he or she is eligible.

(3) A person, eighteen years old or older, may be admitted to an enhanced services facility if he or she meets the criteria in (a) through (c) of this subsection:

(a) The person requires: (i) Daily care by or under the supervision of a mental health professional, chemical dependency professional, or nurse; or (ii) assistance with three or more activities of daily living; and

(b) The person has: (i) A mental disorder, chemical dependency disorder, or both; (ii) an organic or traumatic brain injury; or (iii) a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services;

(c) The person has two or more of the following:

(i) Self-endangering behaviors that are frequent or difficult to manage;

(ii) Aggressive, threatening, or assaultive behaviors that create a risk to the health or safety of other residents or staff, or a significant risk to property and these behaviors are frequent or difficult to manage;

(iii) Intrusive behaviors that put residents or staff at risk;

(iv) Complex medication needs and those needs include psychotropic medications;

(v) A history of or likelihood of unsuccessful placements in other licensed facilities or a history of rejected applications for admission to other licensed facilities based on the person's behaviors, history, or security needs;

(vi) A history of frequent or protracted mental health hospitalizations;

(vii) A history of offenses against a person or felony offenses that created substantial damage to property;

(viii) A history of other problematic placements and other symptoms, as defined in rules adopted by the department.

NEW SECTION. Sec. 506. (1)(a) Every person who is a resident of an enhanced services facility or is involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall retain all rights not denied him or her under these chapters.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, chemical dependency disorder, or both, under this chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) Every resident of an enhanced services facility shall be given a written statement setting forth the substance of this section.

(2) Every resident of an enhanced services facility shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(6) Insofar as danger to the person or others is not created, each resident of an enhanced services facility shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to section 108 or 109 of this act, or the performance of electroconvulsant therapy, or surgery, except emergency life-saving surgery, unless ordered by a court under section 109 of this act;

(h) To discuss treatment plans and decisions with professional persons;

(i) Not to have psychosurgery performed on him or her under any circumstances;

(j) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(7) Nothing contained in this chapter shall prohibit a resident from petitioning by writ of habeas corpus for release.

(8) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

NEW SECTION. Sec. 507. A person who is gravely disabled or presents a likelihood of serious harm as a result of a mental or chemical dependency disorder or co-occurring mental and chemical dependency disorders has a right to refuse antipsychotic medication. Antipsychotic medication may be administered over the person's objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified by this act).

NEW SECTION. Sec. 508. (1)(a) The department shall not license an enhanced services facility that serves any residents under sixty-five years of age for a capacity to exceed sixteen residents.

(b) The department may license and contract for services for the operation of enhanced services facilities only to the extent that funds are specifically provided for that purpose.

(2) The facility shall provide an appropriate level of security for the characteristics, behaviors, and legal status of the residents.

(3) An enhanced services facility may hold only one license but, to the extent permitted under state and federal law and medicaid requirements, a facility may be located in the same building as another licensed facility, provided that:

(a) The enhanced services facility is in a location that is totally separate and discrete from the other licensed facility; and

(b) The two facilities maintain separate staffing, unless an exception to this is permitted by the department in rule.

(4) Nursing homes under chapter 18.51 RCW, boarding homes under chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that become licensed as facilities under this chapter shall be deemed to meet the applicable state and local rules, regulations, permits, and code requirements. All other facilities are required to meet all applicable state and local rules, regulations, permits, and code requirements.

NEW SECTION. Sec. 509. (1) The enhanced services facility shall complete a comprehensive assessment for each resident within fourteen days of admission, and the assessments shall be completed upon a significant change in the resident's condition or, at a minimum, every one hundred eighty days if there is no significant change in condition.

(2) The enhanced services facility shall develop an individualized treatment plan for each resident based on the comprehensive assessment and any other information in the person's record. The plan shall be updated as necessary and shall include a plan for appropriate transfer or discharge. Where the person is under the supervision of the department of corrections, the facility shall collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The plan shall maximize the opportunities for independence, recovery, employment, the resident's participation in treatment decisions, and collaboration with peer-supported services, and provide for care and treatment in the least restrictive manner

appropriate to the individual resident, and, where relevant, to any court orders with which the resident must comply.

NEW SECTION. Sec. 510. (1) An enhanced services facility must have sufficient numbers of staff with the appropriate credentials and training to provide residents with the appropriate care and treatment:

- (a) Mental health treatment;
- (b) Medication services;
- (c) Assistance with the activities of daily living;
- (d) Medical or habilitative treatment;
- (e) Dietary services;
- (f) Security; and
- (g) Chemical dependency treatment.

(2) Where an enhanced services facility specializes in medically or functionally fragile persons with mental disorders, the on-site staff must include at least one licensed nurse twenty-four hours per day. The nurse must be a registered nurse for at least sixteen hours per day. If the nurse is not a registered nurse, a registered nurse or a doctor must be on-call during the remaining eight hours.

(3) Any employee or other individual who will have unsupervised access to vulnerable adults must successfully pass a background inquiry check.

NEW SECTION. Sec. 511. This chapter does not apply to the following residential facilities:

- (1) Nursing homes licensed under chapter 18.51 RCW;
- (2) Boarding homes licensed under chapter 18.20 RCW;
- (3) Adult family homes licensed under chapter 70.128 RCW;
- (4) Facilities approved and certified under chapter 71A.22 RCW;
- (5) Residential treatment facilities licensed under chapter 71.12 RCW; and
- (6) Hospitals licensed under chapter 70.41 RCW.

NEW SECTION. Sec. 512. (1) The department shall establish licensing rules for enhanced services facilities to serve the populations defined in this chapter. In order for the identified populations to be more effectively served, licensing rules shall provide for the facility to specialize in a particular segment to be served including but not necessarily limited to persons with the following needs: (a) Mental health; (b) chemical dependency; (c) developmental disabilities; (d) long-term care medically and functionally fragile individuals with mental disorders; (e) traumatic brain injury; (f) neurological; or (g) any combination of (a) through (f) of this subsection as long as residents can be safely and adequately served.

(2) No person or public or private agency may operate or maintain an enhanced services facility without a license, which must be renewed annually.

(3) A licensee shall have the following readily accessible and available for review by the department, residents, families of residents, and the public:

(a) Its license to operate and a copy of the department's most recent inspection report and any recent complaint investigation reports issued by the department;

(b) Its written policies and procedures for all treatment, care, and services provided directly or indirectly by the facility; and

(c) The department's toll-free complaint number, which shall also be posted in a clearly visible place and manner.

(4) No facility shall discriminate or retaliate in any manner against a resident or employee because the resident, employee, or any

other person made a complaint or provided information to the department, the long-term care ombudsman, or a mental health ombudsperson.

NEW SECTION. Sec. 513. (1) In any case in which the department finds that a licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee failed or refused to comply with the requirements of this chapter or the rules established under them, the department may take any or all of the following actions:

- (a) Suspend, revoke, or refuse to issue or renew a license;
- (b) Order stop placement; or
- (c) Assess civil monetary penalties.

(2) The department may suspend, revoke, or refuse to renew a license, assess civil monetary penalties, or both, in any case in which it finds that the licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee:

- (a) Operated a facility without a license or under a revoked or suspended license;
- (b) Knowingly or with reason to know made a false statement of a material fact in the license application or any data attached thereto, or in any matter under investigation by the department;
- (c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the facility;
- (d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter;
- (e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of the rules adopted under it; or
- (f) Failed to pay any civil monetary penalty assessed by the department under this chapter within ten days after the assessment becomes final.

(3)(a) Civil penalties collected under this chapter shall be deposited into a special fund administered by the department.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed three thousand dollars per day. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(4) The department may use the civil penalty monetary fund for the protection of the health or property of residents of facilities found to be deficient including:

- (a) Payment for the cost of relocation of residents to other facilities;
- (b) Payment to maintain operation of a facility pending correction of deficiencies or closure; and
- (c) Reimbursement of a resident for personal funds or property loss.

(5)(a) The department may issue a stop placement order on a facility, effective upon oral or written notice, when the department determines:

- (i) The facility no longer substantially meets the requirements of this chapter; and
- (ii) The deficiency or deficiencies in the facility:
 - (A) Jeopardizes the health and safety of the residents; or
 - (B) Seriously limits the facility's capacity to provide adequate care.

(b) When the department has ordered a stop placement, the department may approve a readmission to the facility from a hospital, residential treatment facility, or crisis intervention facility when the department determines the readmission would be in the best interest of the individual seeking readmission.

(6) If the department determines that an emergency exists and resident health and safety is immediately jeopardized as a result of a facility's failure or refusal to comply with this chapter, the department may summarily suspend the facility's license and order the immediate closure of the facility, or the immediate transfer of residents, or both.

(7) If the department determines that the health or safety of the residents is immediately jeopardized as a result of a facility's failure or refusal to comply with requirements of this chapter, the department may appoint temporary management to:

- (a) Oversee the operation of the facility; and
- (b) Ensure the health and safety of the facility's residents while:
 - (i) Orderly closure of the facility occurs; or
 - (ii) The deficiencies necessitating temporary management are corrected.

NEW SECTION. Sec. 514. (1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested.

(2) All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or summary license suspension shall be effective immediately upon notice, pending any hearing.

(3) Subject to the requirements of subsection (2) of this section, all hearings under this chapter and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 515. Operation of a facility without a license in violation of this chapter and discrimination against medicaid recipients is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Operation of an enhanced services facility without a license in violation of this chapter is not reasonable in relation to the development and preservation of business. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 516. A person operating or maintaining a facility without a license under this chapter is guilty of a misdemeanor and each day of a continuing violation after conviction shall be considered a separate offense.

NEW SECTION. Sec. 517. Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for an injunction, civil penalty, or other process against a person to restrain or prevent the operation or maintenance of a facility without a license issued under this chapter.

NEW SECTION. Sec. 518. (1) The department shall make or cause to be made at least one inspection of each facility prior to licensure and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Any duly authorized officer, employee, or agent of the department may enter and inspect any facility at any time to determine that the facility is in compliance with this chapter and applicable rules, and to enforce any provision of this chapter. Complaint inspections shall be unannounced and conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection unless authorized or required by federal law.

(3) During inspections, the facility must give the department access to areas, materials, and equipment used to provide care or support to residents, including resident and staff records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department has the authority to privately interview the provider, staff, residents, and other individuals familiar with resident care and treatment.

(4) Any public employee giving advance notice of an inspection in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(5) The department shall prepare a written report describing the violations found during an inspection, and shall provide a copy of the inspection report to the facility.

(6) The facility shall develop a written plan of correction for any violations identified by the department and provide a plan of correction to the department within ten working days from the receipt of the inspection report.

NEW SECTION. Sec. 519. The facility shall only admit individuals:

- (1) Who are over the age of eighteen;
- (2) Who meet the resident eligibility requirements described in section 505 of this act; and
- (3) Whose needs the facility can safely and appropriately meet through qualified and trained staff, services, equipment, security, and building design.

NEW SECTION. Sec. 520. If the facility does not employ a qualified professional able to furnish needed services, the facility must have a written contract with a qualified professional or agency outside the facility to furnish the needed services.

NEW SECTION. Sec. 521. At least sixty days before the effective date of any change of ownership, or change of management of a facility, the current operating entity must provide written notification about the proposed change separately and in writing, to the department, each resident of the facility, or the resident's guardian or representative.

NEW SECTION. Sec. 522. The facility shall:

- (1) Maintain adequate resident records to enable the provision of necessary treatment, care, and services and to respond appropriately in emergency situations;
- (2) Comply with all state and federal requirements related to documentation, confidentiality, and information sharing, including chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and
- (3) Where possible, obtain signed releases of information designating the department, the facility, and the department of corrections where the person is under its supervision, as recipients of health care information.

NEW SECTION. Sec. 523. (1) Standards for fire protection and the enforcement thereof, with respect to all facilities licensed under this chapter, are the responsibility of the chief of the

Washington state patrol, through the director of fire protection, who must adopt recognized standards as applicable to facilities for the protection of life against the cause and spread of fire and fire hazards. If the facility to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, the director of fire protection must submit to the department a written report approving the facility with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall conduct an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Inspections of facilities by local authorities must be consistent with the requirements adopted by the chief of the Washington state patrol, through the director of fire protection. Findings of a serious nature must be coordinated with the department and the chief of the Washington state patrol, through the director of fire protection, for determination of appropriate actions to ensure a safe environment for residents. The chief of the Washington state patrol, through the director of fire protection, has exclusive authority to determine appropriate corrective action under this section.

NEW SECTION. Sec. 524. No facility providing care and treatment for individuals placed in a facility, or agency licensing or placing residents in a facility, acting in the course of its duties, shall be civilly or criminally liable for performing its duties under this chapter, provided that such duties were performed in good faith and without gross negligence.

NEW SECTION. Sec. 525. (1) The secretary shall adopt rules to implement this chapter.

(2) Such rules shall at the minimum: (a) Promote safe treatment and adequate care of individuals residing in the facility and provide for safe, comfortable, and clean conditions; (b) establish licensee qualifications, licensing and enforcement, and license fees; and (c) establish payment rates for facility services.

PART VI FORENSIC AND CORRECTIONAL

Drug and Mental Health Courts

NEW SECTION. Sec. 601. A new section is added to chapter 2.28 RCW to read as follows:

- (1) Counties may establish and operate mental health courts.
- (2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, mentally ill felony and nonfelony offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

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

- (i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and
- (ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health 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 mental health court operations and associated services.

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

- (i) The offender would benefit from psychiatric 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.

NEW SECTION. Sec. 602. A new section is added to chapter 2.28 RCW to read as follows:

Any county that has established a drug court and a mental health court under this chapter may combine the functions of both courts into a single therapeutic court.

NEW SECTION. Sec. 603. A new section is added to chapter 26.12 RCW to read as follows:

(1) Every county that authorizes the tax provided in section 904 of this act shall, and every county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources. A county with a drug court for criminal cases or with a mental health court may include a therapeutic court for dependency proceedings as a component of its existing program.

(2) For the purposes of this section, "therapeutic court" means a court that has special calendars or dockets designed for the intense judicial supervision, coordination, and oversight of treatment provided to parents and families who have substance abuse or mental health problems and who are involved in the dependency and is designed to achieve a reduction in:

- (a) Child abuse and neglect;
- (b) Out-of-home placement of children;
- (c) Termination of parental rights; and
- (d) Substance abuse or mental health symptoms among parents or guardians and their children.

(3) To the extent possible, the therapeutic court shall provide services for parents and families co-located with the court or as near to the court as practicable.

(4) The department of social and health services shall furnish services to the therapeutic court unless a court contracts with providers outside of the department.

(5) Any jurisdiction that receives a state appropriation to fund a therapeutic court must first exhaust all federal funding available for the development and operation of the therapeutic court and associated services.

(6) Moneys allocated by the state for a therapeutic court must be used to supplement, not supplant, other federal, state, local, and private funding for court operations and associated services under this section.

(7) Any county that establishes a therapeutic court or receives funds for an existing court under this section shall:

(a) Establish minimum requirements for the participation in the program; and

(b) Develop an evaluation component of the court, including tracking the success rates in graduating from treatment, reunifying parents with their children, and the costs and benefits of the court.

Sec. 604. RCW 2.28.170 and 2002 c 290 s 13 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 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 (~~received from the office of national drug control policy~~) 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.

Regional Jails

NEW SECTION. Sec. 605. (1) The joint legislative audit and review committee shall investigate and assess whether there are existing facilities in the state that could be converted to use as a regional jail for offenders who have mental or chemical dependency disorders, or both, that need specialized housing and treatment arrangements.

(2) The joint legislative audit and review committee shall consider the feasibility of using at least the following facilities or types of facilities:

- (a) State-owned or operated facilities; and
- (b) Closed or abandoned nursing homes.

(3) The analysis shall include an assessment of when such facilities could be available for use as a regional jail and the potential costs, costs avoided, and benefits of at least the following considerations:

- (a) Any impact on existing offenders or residents;
- (b) The conversion of the facilities;

- (c) Infrastructure tied to the facilities;
 - (d) Whether the facility is, or can be, sized proportionately to the available pool of offenders;
 - (e) Changes in criminal justice costs, including transport, access to legal assistance, and access to courts;
 - (f) Reductions in jail populations; and
 - (g) Changes in treatment costs for these offenders.
- (4) The joint legislative audit and review committee shall report its findings and recommendations to the appropriate committees of the legislature not later than December 15, 2005.

Competency and Criminal Insanity

NEW SECTION. Sec. 606. By January 1, 2006, the department of social and health services shall:

- (1) Reduce the waiting times for competency evaluation and restoration to the maximum extent possible using funds appropriated for this purpose; and
- (2) Report to the legislature with an analysis of several alternative strategies for addressing increases in forensic population and minimizing waiting periods for competency evaluation and restoration. The report shall discuss, at a minimum, the costs and advantages of, and barriers to co-locating professional persons in jails, performing restoration treatment in less restrictive alternatives than the state hospitals, and the use of regional jail facilities to accomplish competency evaluation and restoration.

ESSB 6358 Implementation Issues

Sec. 607. RCW 71.05.157 and 2004 c 166 s 16 are each amended to read as follows:

- (1) When a ((county)) designated mental health professional is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the ((county)) designated mental health professional shall evaluate the person within seventy-two hours of release.
- (2) When an offender is under court-ordered treatment in the community and the supervision of the department of corrections, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the ((county)) designated mental health professional and the department of corrections of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.
- (3) When a ((county)) designated mental health professional becomes aware that an offender who is under court-ordered treatment in the community and the supervision of the department of corrections is in violation of a treatment order or a condition of supervision that relates to public safety, or the ((county)) designated mental health professional detains a person under this chapter, the ((county)) designated mental health professional shall notify the person's treatment provider and the department of corrections.
- (4) When an offender who is confined in a state correctional facility or is under supervision of the department of corrections in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify the department of corrections and the department of corrections shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department of corrections classified the offender as a high risk or high needs offender.
- (5) Nothing in this section creates a duty on any treatment provider or ((county)) designated mental health professional to provide offender supervision.

NEW SECTION. Sec. 608. A new section is added to chapter 70.96A RCW to read as follows:

- (1) Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to court ordered mental health or chemical dependency treatment, whether civil or criminal, and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to court ordered mental health or chemical dependency treatment, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record.
- (2) Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to supervision of any kind by the department of corrections and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to supervision of any kind by the department of corrections, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record.
- (3) For all persons who are subject to both court ordered mental health or chemical dependency treatment and supervision by the department of corrections, the treatment provider shall request an authorization to release records and notify the person that, unless expressly excluded by the court order the law requires treatment providers to share information with the department of corrections and the person's mental health treatment provider.
- (4) If the treatment provider has reason to believe that a person is subject to supervision by the department of corrections but the person's record does not indicate that he or she is, the treatment provider may call any department of corrections office and provide the person's name and birth date. If the person is subject to supervision, the treatment provider shall request, and the department of corrections shall provide, the name and contact information for the person's community corrections officer.

PART VII BEST PRACTICES AND COLLABORATION

NEW SECTION. Sec. 701. (1) The department of social and health services, in consultation with the members of the team charged with developing the state plan for co-occurring mental and substance abuse disorders, shall adopt, not later than January 1, 2006, an integrated and comprehensive screening and assessment process for chemical dependency and mental disorders and co-occurring chemical dependency and mental disorders.

- (a) The process adopted shall include, at a minimum:
 - (i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;
 - (ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree of assessment for most situations, which can be expanded for complex situations;
 - (iii) Identification of triggers in the screening that indicate the need to begin an assessment;
 - (iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;
 - (v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and

(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.

(b) The department shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.

(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all chemical dependency and mental health treatment providers as well as all designated mental health professionals, designated chemical dependency specialists, and designated crisis responders not later than January 1, 2007.

(2) The department shall provide adequate training to effect statewide implementation by the dates designated in this section and shall report the rates of co-occurring disorders and the stage of screening or assessment at which the co-occurring disorder was identified to the caseload forecast council.

(3) The department shall establish contractual penalties to contracted treatment providers, the regional support networks, and their contracted providers for failure to implement the integrated screening and assessment process by July 1, 2007.

NEW SECTION. Sec. 702. The department of corrections shall, to the extent that resources are available for this purpose, utilize the integrated, comprehensive screening and assessment process for chemical dependency and mental disorders developed under section 701 of this act.

NEW SECTION. Sec. 703. A new section is added to chapter 71.02 RCW to read as follows:

(1) By June 30, 2006, the department shall develop and implement a matrix or set of matrices for providing services based on the following principles:

(a) Maximizing evidence-based practices where these practices exist; where no evidence-based practice exists, the use of research-based practices, including but not limited to, the adaptation of evidence-based practices to new situations; where no evidence-based or research-based practices exist the use of consensus-based practices; and, to the extent that funds are available, the use of promising practices;

(b) Maximizing the person's independence, recovery, and employment by consideration of the person's strengths and supports in the community;

(c) Maximizing the person's participation in treatment decisions including, where possible, the person's awareness of, and technical assistance in preparing, mental health advance directives; and

(d) Collaboration with consumer-based support programs.

(2) The matrix or set of matrices shall include both adults and children and persons with co-occurring mental and substance abuse disorders and shall build on the service intensity quadrant models that have been developed in this state.

(3)(a) The matrix or set of matrices shall be developed in collaboration with experts in evidence-based practices for mental disorders, chemical dependency disorders, and co-occurring mental and chemical dependency disorders at the University of Washington, and in consultation with representatives of the regional support networks, community mental health providers, county chemical dependency coordinators, chemical dependency providers, consumers, family advocates, and community inpatient providers.

(b) The matrix or set of matrices shall, to the extent possible, adopt or utilize materials already prepared by the department or by other states.

(4)(a) The department shall require, by contract with the regional support networks, that providers maximize the use of evidence-based, research-based, and consensus-based practices and document the percentage of clients enrolled in evidence-based, research-based, and consensus-based programs by program type.

(b) The department shall establish a schedule by which regional support networks and providers must adopt the matrix or set of matrices and a schedule of penalties for failure to adopt and implement the matrices. The department may act against the regional support networks or providers or both to enforce the provisions of this section and shall provide the appropriate committees of the legislature with the schedules adopted under this subsection by June 30, 2006.

(5) The following definitions apply to this section:

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

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

(c) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

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

NEW SECTION. Sec. 704. A new section is added to chapter 71.02 RCW to read as follows:

(1) The department of social and health services shall collaborate with community providers of mental health services, early learning and child care providers, child serving agencies, and child-placing agencies to identify and utilize federal, state, and local services and providers for children in out-of-home care and other populations of vulnerable children who are in need of an evaluation and treatment for mental health services and do not qualify for medicaid or treatment services through the regional support networks.

(2) If no appropriate mental health services are available through federal, state, or local services and providers for a child described in subsection (1) of this section, the regional support network must provide a child, at a minimum, with a mental health evaluation consistent with chapter 71.24 RCW.

(3) The department, in collaboration with the office of the superintendent of public instruction, local providers, local school districts, and the regional support networks, shall identify and review existing programs and services as well as the unmet need for programs and services serving birth to five and school-aged children who exhibit early signs of behavioral or mental health disorders and who are not otherwise eligible for services through the regional support networks. The review of programs and services shall include, but not be limited to, the utilization and effectiveness of early intervention or prevention services and the primary intervention programs.

The department of social and health services shall provide a briefing on the collaboration's findings and recommendations to the appropriate committee of the legislature by December 31, 2005.

NEW SECTION. Sec. 705. The Washington state institute for public policy shall assess the long-term and intergenerational cost-

effectiveness of investing in the treatment of chemical dependency disorders, mental disorders, and co-occurring mental and substance abuse disorders. The assessment shall use, to the extent possible, existing governmental data bases and research and determine the net present value of costs avoided or minimized. These costs include, but are not limited to, homeless services, domestic violence services, primary care, jail or prison, competency evaluations and restorations, child protective services interventions, dependencies, foster care, emergency service interventions, and prosecutorial, defense, and court costs. If possible, the institute shall indicate whether prevention and early intervention programs differ from acute and chronic treatment programs in long-term cost-effectiveness.

PART VIII

REPEALERS AND CROSS-REFERENCE CORRECTIONS

NEW SECTION. Sec. 801. The following acts or parts of acts are each repealed on the effective date of section 107 of this act:

(9) RCW 71.05.060 (Rights of persons complained against) and 1973 1st ex.s. c 142 s 11;

(10) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

(11) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s 3 & 1973 1st ex.s. c 142 s 14;

(12) RCW 71.05.200 (Notice and statement of rights--Probable cause hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

(13) RCW 71.05.250 (Probable cause hearing--Detained person's rights--Waiver of privilege--Limitation--Records as evidence) and 1989 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c 142 s 30;

(14) RCW 71.05.450 (Competency--Effect--Statement of Washington law) and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

(15) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st ex.s. c 142 s 51;

(16) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973 1st ex.s. c 142 s 52;

(17) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus) and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

(18) RCW 71.05.490 (Rights of persons committed before January 1, 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

NEW SECTION. Sec. 802. The following acts or parts of acts are each repealed on the effective date of section 111 of this act:

(19) RCW 71.05.155 (Request to mental health professional by law enforcement agency for investigation under RCW 71.05.150--Advisory report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

(20) RCW 71.05.395 (Application of uniform health care information act, chapter 70.02 RCW) and 1993 c 448 s 8;

(21) RCW 71.05.400 (Release of information to patient's next of kin, attorney, guardian, conservator--Notification of patient's death) and 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973 1st ex.s. c 142 s 45;

(22) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and

(23) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

NEW SECTION. Sec. 803. RCW 71.05.610 (Treatment records--Definitions) and 1989 c 205 s 11 are each repealed on the effective date of sections 104 through 106 of this act.

NEW SECTION. Sec. 804. The following acts or parts of acts are each repealed:

(24) RCW 71.05.650 (Treatment records--Notation of and access to released data) and 1989 c 205 s 15; and

(25) RCW 71.05.670 (Treatment records--Violations--Civil action) and 1999 c 13 s 10.

Sec. 805. RCW 5.60.060 and 2001 c 286 s 2 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 70.96A, 70.-- (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or ~~((71.05.250))~~ 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

(b) For purposes of this section, "peer support group counselor" means a:

(i) Law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, police chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made by the victim to the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a rape crisis center, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

Sec. 806. RCW 18.83.110 and 1989 c 271 s 303 are each amended to read as follows:

Confidential communications between a client and a psychologist shall be privileged against compulsory disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client, but this exception is subject to the limitations under RCW 70.96A.140 and ~~((71.05.250))~~ 71.05.360 (8) and (9).

Sec. 807. RCW 18.225.105 and 2003 c 204 s 1 are each amended to read as follows:

A person licensed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.225.100, nor any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(1) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(2) If the person waives the privilege by bringing charges against the person licensed under this chapter;

(3) In response to a subpoena from the secretary. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(4) As required under chapter 26.44 or 74.34 RCW or RCW ~~((71.05.250))~~ 71.05.360 (8) and (9); or

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

Sec. 808. RCW 71.05.235 and 2000 c 74 s 6 are each amended to read as follows:

(1) If an individual is referred to a ~~((county))~~ designated mental health professional under RCW 10.77.090(1)(d)(iii)(A), the ~~((county))~~ designated mental health professional shall examine the individual within forty-eight hours. If the ~~((county))~~ designated mental health professional determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the ~~((county))~~ designated mental health professional not later than the next judicial day. At the hearing the superior court shall review the determination of the ~~((county))~~ designated mental health professional and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under chapter 71.05 RCW. Before expiration of the seventy-two hour evaluation period authorized under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and

treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the prosecutor or professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW ((71.05.250)) 71.05.360 (8) and (9).

During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

(3) If a ((county)) designated mental health professional or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

(4) The individual shall have the rights specified in RCW ((71.05.250)) 71.05.360 (8) and (9).

Sec. 809. RCW 71.05.310 and 1987 c 439 s 9 are each amended to read as follows:

The court shall conduct a hearing on the petition for ninety day treatment within five judicial days of the first court appearance after the probable cause hearing. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW ((71.05.250)) 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

Sec. 810. RCW 71.05.425 and 2000 c 94 s 10 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW ((71.05.410)) 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 811. RCW 71.05.445 and 2004 c 166 s 4 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information.

(b) "Mental health service provider" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.05.020, community mental health service delivery systems, or community mental health programs as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

(2)(a) Information related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW shall be released, upon request, by a mental health service provider to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community. The request shall be in writing and shall not require the consent of the subject of the records.

(b) If an offender subject to chapter 9.94A or 9.95 RCW has failed to report for department of corrections supervision or in the event of an emergent situation that poses a significant risk to the public or the offender, information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found shall be released by the mental health services provider to the department of corrections upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health services provider and the address or information about the location or whereabouts of the offender. Information released in response to a written request may include information identified by rule as provided in subsections (4) and (5) of this section. For purposes of this subsection a written request includes requests made by e-mail or facsimile so long as the requesting person at the department of corrections is clearly identified. The request must specify the information being requested. Disclosure of the information requested does not require the consent of the subject of the records unless the offender has received relief from disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

(3)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service

provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health services provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the mental health services provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health services provider is not required to notify the department of corrections that the mental health services provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.

(4) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (2) of this section.

(5) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in subsection (1) of this section, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(6) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

(7) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section except under RCW (~~71.05.670 and~~) 71.05.440.

(8) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(9) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(10) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health

service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

Sec. 812. RCW 71.05.640 and 2000 c 94 s 11 are each amended to read as follows:

(1) Procedures shall be established by resource management services to provide reasonable and timely access to individual treatment records. However, access may not be denied at any time to records of all medications and somatic treatments received by the individual.

(2) Following discharge, the individual shall have a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge all individuals shall be informed by resource management services of their rights as provided in RCW ~~((71.05.610))~~ 71.05.620 through 71.05.690.

Sec. 813. RCW 71.05.680 and 1999 c 13 s 11 are each amended to read as follows:

Any person who requests or obtains confidential information pursuant to RCW ~~((71.05.610))~~ 71.05.620 through 71.05.690 under false pretenses shall be guilty of a gross misdemeanor.

Sec. 814. RCW 71.05.690 and 1999 c 13 s 12 are each amended to read as follows:

The department shall adopt rules to implement RCW ~~((71.05.610))~~ 71.05.620 through 71.05.680.

Sec. 815. RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for mentally ill adults and children. The secretary may also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed

children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used in contracting with regional support networks or counties. The standard contract shall include a maximum fund balance, which shall not exceed ten percent;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state, counties, and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, ~~((71.05.400, 71.05.410;))~~ 71.05.420, ~~((71.05.430;))~~ and 71.05.440. The design of the system and the data elements to be collected shall be reviewed by the work group appointed by the secretary under section 5(1) of this act and representing the department, regional support networks, service providers, consumers, and advocates. The data elements shall be designed to provide information that is needed to measure performance and achieve the service outcomes ~~((identified in section 5 of this act));~~

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit counties, regional support networks, and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter; and

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter.

(6) The secretary shall use available resources only for regional support networks.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13)(a) The department, in consultation with affected parties, shall establish a distribution formula that reflects county needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed. The formula shall take into consideration the impact on counties of demographic factors in counties which result in concentrations of priority populations as set forth in subsection (5)(b) of this section. These factors shall include

the population concentrations resulting from commitments under chapters 71.05 and 71.34 RCW to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors.

(b) The formula shall also include a projection of the funding allocations that will result for each county, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.

(c) After July 1, 2003, the department may allocate up to two percent of total funds to be distributed to the regional support networks for incentive payments to reward the achievement of superior outcomes, or significantly improved outcomes, as measured by a statewide performance measurement system consistent with the framework recommended in the joint legislative audit and review committee's performance audit of the mental health system. The department shall annually report to the legislature on its criteria and allocation of the incentives provided under this subsection.

(14) The secretary shall assume all duties assigned to the nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties under regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Allocate one hundred percent of available resources to the regional support networks in accordance with subsection (13) of this section. Incentive payments authorized under subsection (13) of this section may be allocated separately from other available resources.

(d) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(e) Deny funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.

(16) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

PART IX

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 901. RCW 71.05.035 is recodified as a new section in chapter 71A.12 RCW.

NEW SECTION. Sec. 902. A new section is added to chapter 43.20A RCW to read as follows:

Beginning July 1, 2007, the secretary shall require, in the contracts the department negotiates pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate increases provided for mental health and chemical dependency treatment providers or programs who are parties to the contract or subcontractors of any party to the contract shall be prioritized to those providers and programs that maximize the use of evidence-based and research-based practices, as those terms are defined in section 703 of this act, unless otherwise designated by the legislature.

NEW SECTION. Sec. 903. 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. 904. A new section is added to chapter 82.14 RCW to read as follows:

(1) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section shall be used solely for the purpose of providing new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs. Moneys collected under this section shall not be used to supplant existing funding for these purposes.

NEW SECTION. Sec. 905. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

NEW SECTION. Sec. 906. Captions, part headings, and subheadings used in this act are not part of the law.

NEW SECTION. Sec. 907. If specific funding for the purposes of sections 102, 103, 203, 217, 220, 221, 401, 402, 403, 406, 605, 606, 701, 703, 704, and 705 of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2005, each section not referenced is null and void.

NEW SECTION. Sec. 908. (1) The code reviser shall alphabetize and renumber the definitions, and correct any internal references affected by this act.

(2) The code reviser shall replace all references to "county designated mental health professional" with "designated mental health professional" in the Revised Code of Washington.

NEW SECTION. Sec. 909. (1) The secretary of the department of social and health services may adopt rules as necessary to implement the provisions of this act.

(2) The secretary of corrections may adopt rules as necessary to implement the provisions of this act.

NEW SECTION. Sec. 910. (1) Except for section 603 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005.

(2) Section 603 of this act takes effect July 1, 2006."

On page 1, line 2 of the title, after "2005;" strike the remainder of the title and insert "amending RCW 71.05.020, 71.24.025, 10.77.010, 71.05.360, 71.05.215, 71.05.370, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660, 71.05.550, 71.34.042, 71.34.052, 71.34.054, 71.34.025, 71.34.162, 71.34.270, 2.28.170, 71.05.157, 5.60.060, 18.83.110, 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding new sections to chapter 71.05 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new sections to chapter 2.28 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 71.02 RCW; adding new sections to chapter 71.34 RCW; adding a new section to chapter 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 82.14 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 71.05.370, 71.34.010, 71.34.020, 71.34.140, 71.34.032, 71.34.250, 71.34.280, 71.34.260, 71.34.240, 71.34.230, 71.34.210, 71.34.200, 71.34.225, 71.34.220, 71.34.160, 71.34.190, 71.34.170, 71.34.290, 71.34.056, 71.34.800, 71.34.805, 71.34.810, 71.34.015, 71.34.027, 71.34.130, 71.34.270, 71.34.042, 71.34.044, 71.34.046, 71.34.030, 71.34.052, 71.34.025, 71.34.162, 71.34.164, 71.34.035, 71.34.054, 71.34.040, 71.34.050, 71.34.060, 71.34.070, 71.34.080, 71.34.090, 71.34.100, 71.34.120, 71.34.110, 71.34.150, 71.34.180, 71.34.900, 71.34.901, and 71.05.035; repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250, 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155, 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and 71.05.670; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

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

MINORITY recommendation: Do not pass. Signed by Representatives Bailey, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander

Passed to Committee on Appropriations.

March 31, 2005

E2SSB 5773

Prime Sponsor, Senate Committee on Ways & Means: Protecting homeowners who hire contractors to remodel or build their homes. 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. FINDINGS. The legislature finds that the vast majority of contractors and subcontractors engaged in the business of constructing or remodeling owner-occupied single-family homes are both technically proficient in their trade and able to manage their business dealings in accordance with the highest standards. The legislature also finds, however, that in those relatively few, but all-too-frequent, instances where prime contractors on such construction or remodeling projects intentionally or unintentionally mismanage payments received from residential homeowners that are intended for subcontractors, suppliers, and others, existing provisions are inadequate to protect residential homeowners. Additionally, the toll on a residential homeowner's personal economic and emotional condition that such financial mismanagement by this small fraction of prime contractors is not adequately balanced against the responsibilities, obligations, and possible penalties that contractors bear for such mismanagement. Consequently, the legislature finds that it is necessary to clearly establish that prime residential contractors and residential subcontractors have a duty to properly manage funds received from or on behalf of residential homeowners that are intended for suppliers, subcontractors, and others, and to hold those who fail in this duty personally responsible for such financial mismanagement.

Sec. 2. DEFINITIONS. RCW 60.04.011 and 1992 c 126 s 1 are each amended to read as follows:

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

(1) "Construction agent" means any registered or licensed contractor, registered or licensed subcontractor, architect, engineer, or other person having charge of any improvement to real property, who shall be deemed the agent of the owner for the limited purpose of establishing the lien created by this chapter.

(2) "Contract price" means the amount, including overhead and profit, agreed upon by the contracting parties, or if no amount is agreed upon, then the customary and reasonable charge therefor, but in no case shall "contract price" include any amount payable under the contract, or otherwise, in the event of nonpayment or late payment.

(3) "Department" means the department of labor and industries.

~~((3))~~ (4) "Draws" means periodic disbursements of interim or construction financing by a lender.

~~((4))~~ (5) "Furnishing labor, professional services, materials, or equipment" means the performance of any labor or professional services, the contribution owed to any employee benefit plan on account of any labor, the provision of any supplies or materials, and the renting, leasing, or

otherwise supplying of equipment for the improvement of real property.

~~((5))~~ (6) "Improvement" means: (a) Constructing, altering, repairing, remodeling, demolishing, clearing, grading, or filling in, of, to, or upon any real property or street or road in front of or adjoining the same; (b) planting of trees, vines, shrubs, plants, hedges, or lawns, or providing other landscaping materials on any real property; and (c) providing professional services upon real property or in preparation for or in conjunction with the intended activities in (a) or (b) of this subsection.

~~((6))~~ (7) "Interim or construction financing" means that portion of money secured by a mortgage, deed of trust, or other encumbrance to finance improvement of, or to real property, but does not include:

(a) Funds to acquire real property;

(b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;

(c) Funds to pay loan, commitment, title, legal, closing, recording, or appraisal fees;

(d) Funds to pay other customary fees, which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;

(e) Funds to acquire personal property for which the potential lien claimant may not claim a lien pursuant to this chapter.

~~((7))~~ (8) "Labor" means exertion of the powers of body or mind performed at the site for compensation. "Labor" includes amounts due and owed to any employee benefit plan on account of such labor performed.

~~((8))~~ (9) "Mortgagee" means a person who has a valid mortgage of record or deed of trust of record securing a loan.

~~((9))~~ (10) "Owner-occupied" means a single-family residence occupied by the owner as his or her principal residence.

~~((10))~~ (11) "Payment bond" means a surety bond issued by a surety licensed to issue surety bonds in the state of Washington that confers upon potential claimants the rights of third party beneficiaries.

~~((11))~~ (12) "Potential lien claimant" means any person or entity entitled to assert lien rights under this chapter who has otherwise complied with the provisions of this chapter and is registered or licensed if required to be licensed or registered by the provisions of the laws of the state of Washington.

~~((12))~~ (13) "Prime contractor" includes all contractors, general contractors, and specialty contractors, as defined by chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who contract directly with a property owner or their common law agent to assume primary responsibility for the creation of an improvement to real property, and includes property owners or their common law agents who are contractors, general contractors, or specialty contractors as defined in chapter 18.27 or 19.28 RCW, or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the

structures, projects, developments, or improvements for more than one year.

(14) "Prime residential contractor" means: (a) A prime contractor that is engaged in the business of making improvements to a single-family residence of a residential homeowner; and (b) the prime contractor's principals, partners, officers, directors, members, vice principals, and agents with executive, managerial, supervisory, physical, or actual control over the accounting or disbursement of amounts received by the prime residential contractor from or on behalf of residential homeowners.

~~((+3))~~ (15) "Professional services" means surveying, establishing or marking the boundaries of, preparing maps, plans, or specifications for, or inspecting, testing, or otherwise performing any other architectural or engineering services for the improvement of real property.

~~((+4))~~ (16) "Real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, partnership, trust, or individual that makes loans secured by real property located in the state of Washington.

(17) "Residential homeowner" has the meaning provided in RCW 18.27.010. For purposes of sections 3 and 4 of this act, "residential homeowner" also means an individual person or person who has entered into a contract with a contractor, builder, or developer to purchase and occupy a single-family residence at the completion of improvements to the residence or a garage appurtenant to the residence.

(18) "Residential subcontractor" means: (a) A subcontractor retained by a prime residential contractor to assist in making improvements to a single-family residence of a residential homeowner; and (b) the residential subcontractor's principals, partners, officers, directors, members, vice principals, and agents with executive, managerial, supervisory, physical, or actual control over the accounting or disbursement of amounts received by the residential subcontractor from or on behalf of residential homeowners.

~~((+5))~~ (19) "Site" means the real property which is or is to be improved.

~~((+6))~~ (20) "Subcontractor" means a general contractor or specialty contractor as defined by chapter 18.27 or 19.28 RCW, or who is otherwise required to be registered or licensed by law, who contracts for the improvement of real property with someone other than the owner of the property or their common law agent.

NEW SECTION. Sec. 3. PRIME RESIDENTIAL CONTRACTOR; FIDUCIARY DUTIES AND PERSONAL LIABILITY. A new section is added to chapter 60.04 RCW to read as follows:

(1) A prime residential contractor has the duty to act in the best interest of a residential homeowner in the receipt, management, and disbursement of all amounts paid by or on behalf of the residential homeowner to the prime residential contractor for application toward the contract price.

(2) A prime residential contractor shall maintain accurate and complete accounting records and books adequate to identify all amounts received from or on behalf of a residential homeowner and the use or application of such amounts for the payment of the contract price for labor, professional services, materials, or equipment supplied by any entity having a potential lien claim right against the residential homeowner.

(3)(a) Except as provided in (b) of this subsection, all amounts paid by or on behalf of the residential homeowner to the prime residential contractor for application toward the contract price shall not be used by the prime residential contractor for any purpose until all amounts owed to potential lien claimants as of the date of the prime residential contractor's request for payment have been paid to the extent owed.

(b) All amounts paid to a prime residential contractor by or on behalf of a residential homeowner shall be presumed to be applied toward the contract price for labor, professional services, materials, or equipment supplied by potential lien claimants other than the prime residential contractor unless, at the time of requesting or applying for payment from or on behalf of a residential homeowner, a prime residential contractor provides written notice to the residential homeowner identifying:

(i) The potential lien claimants, if any, to which payment is owed as of the time of requesting or applying for payment, or to which the prime residential contractor intends to apply part or all of the residential homeowner's payment; and

(ii) Which of such potential lien claimants, if any, the prime residential contractor does not intend to fully pay from the residential homeowner's payment, and the reason for less than full payment.

(4) A prime residential contractor shall be personally liable for the full amount of any lien claim that involves a violation of the prime residential contractor's duties under this section and that is recorded pursuant to RCW 60.04.091 if:

(a) The prime residential contractor fails to show, by clear and convincing evidence, that amounts paid to the prime residential contractor by or on behalf of a residential homeowner for application toward the contract price for labor, professional services, materials, or equipment supplied by a potential lien claimant other than the prime residential contractor were actually paid to a potential lien claimant;

(b) The prime residential contractor had or should have had knowledge of such use of amounts, unless the prime residential contractor shows, by a preponderance of the evidence in defending against the claimed lien, that he or she actually did not know and had no reasonable opportunity to know of such use of amounts; and

(c) The prime contractor owed the amount stated in the recorded claim of lien when the prime residential contractor applied for payment from the residential homeowner.

(5) Nothing in this section requires a prime residential contractor to create or maintain a separate account for each residential homeowner.

NEW SECTION. **Sec. 4. RESIDENTIAL SUBCONTRACTOR; FIDUCIARY DUTIES AND PERSONAL LIABILITY.** A new section is added to chapter 60.04 RCW to read as follows:

(1) A residential subcontractor has the duty to act in the best interest of a residential homeowner in the receipt, management, and disbursement of all amounts paid by, on behalf of, or for the benefit of, the residential homeowner or the prime residential contractor to the subcontractor for application toward the contract price.

(2) A residential subcontractor shall maintain accurate and complete accounting records and books adequate to identify all amounts received from or on behalf of a residential homeowner and the use or application of such amounts for the payment of the contract price for labor, professional services, materials, or equipment supplied by any entity having a potential lien claim right against the residential homeowner.

(3)(a) Except as provided in (b) of this subsection, all amounts paid by a prime residential contractor for the benefit of, or on behalf of, a residential homeowner to the residential subcontractor for application toward the contract price shall not be used by the residential subcontractor for any purpose until all amounts owed to potential lien claimants as of the date of the residential subcontractor's request for payment have been paid to the extent owed.

(b) All amounts paid to a residential subcontractor for the benefit of, or on behalf of, a residential homeowner shall be presumed to be applied toward the contract price for labor, professional services, materials, or equipment supplied by potential lien claimants at the request of the residential subcontractor unless, at the time of requesting or applying for payment from a prime residential contractor, the residential subcontractor provides written notice to the prime residential contractor identifying:

(i) The potential lien claimants, if any, to which payment is owed as of the time of requesting or applying for payment, or to which the residential subcontractor intends to apply part or all of the prime residential contractor's payment; and

(ii) Which of such potential lien claimants, if any, the residential subcontractor does not intend to fully pay from the prime residential contractor's payment, and the reason for less than full payment.

(4) A residential subcontractor shall be personally liable for the full amount of any lien claim that involves a violation of the residential subcontractor's duties under this section and that is recorded pursuant to RCW 60.04.091 if:

(a) The residential subcontractor fails to show, by clear and convincing evidence, that amounts paid to the residential subcontractor by a prime residential contractor for application toward the contract price for labor, professional services, materials, or equipment supplied by a potential lien claimant other than the residential subcontractor were actually paid to a potential lien claimant;

(b) The residential subcontractor has or should have had knowledge of such use of amounts, unless the residential subcontractor shows, by a preponderance of the evidence in

defending against the claimed lien, that he or she actually did not know and had no reasonable opportunity to know of such use of amounts; and

(c) The residential subcontractor owed the amount stated in the recorded claim of lien when the residential subcontractor applied for payment from the prime residential contractor.

(5) Nothing in this section requires a residential subcontractor to create or maintain a separate account for each residential homeowner.

Sec. 5. RECORDING; TIME; CONTENTS OF LIEN. RCW 60.04.091 and 1992 c 126 s 7 are each amended to read as follows:

Except as provided under subsection (3) of this section, every person claiming a lien under RCW 60.04.021 shall file for recording, in the county where the subject property is located, a notice of claim of lien not later than ninety days after the person has ceased to furnish labor, professional services, materials, or equipment or the last date on which employee benefit contributions were due. ((The notice of claim of lien:))

(1) The notice of claim of lien shall state in substance and effect:

(a) The name, ((phone)) telephone number, and address of the claimant;

(b) The first ((and)) date on which the claimant began to perform labor, provide professional services, or supply material or equipment or the first date on which employee benefits became due;

(c) The last date on which the labor, professional services, materials, or equipment was furnished or employee benefit contributions were due;

((~~(c)~~)) (d) The name of the person indebted to the claimant;

((~~(d)~~)) (e) The street address, legal description, or other description reasonably calculated to identify, for a person familiar with the area, the location of the real property to be charged with the lien;

((~~(e)~~)) (f) The name of the owner or reputed owner of the property, if known, and, if not known, that fact shall be stated; ((and

—(f)) (g) The principal amount for which the lien is claimed, excluding any interest, late fees, costs, attorneys' fees, or similar charges; and

(h) Whether the claimant is the assignee of the claim.

(2) The notice of claim of lien shall be signed by the claimant or some person authorized to act on his or her behalf who shall affirmatively state ((they have)) that he or she has read or heard and understand the notice of claim of lien ((and)), believe the ((notice of claim of lien)) contents to be true and correct, and the lien is not frivolous and is not clearly excessive, under penalty of perjury, and shall be acknowledged as set forth in the form below, or pursuant to chapter 64.08 RCW. If the lien has been assigned, the name of the assignee shall be stated. Where an action to foreclose the lien has been commenced such notice of claim of lien may be amended as pleadings may be by order of the court insofar as the interests

of third parties are not adversely affected by such amendment. A claim of lien substantially in the following form shall be sufficient:

state of claimant)

CLAIM OF LIEN

....., claimant, vs, name of person indebted to claimant:

Notice is hereby given that the person named below claims a lien pursuant to chapter ((64.04)) 60.04 RCW. In support of this lien the following information is submitted:

- 1. NAME OF LIEN CLAIMANT:
TELEPHONE NUMBER:
ADDRESS:
- 2. DATE ON WHICH THE CLAIMANT BEGAN TO PERFORM LABOR, PROVIDE PROFESSIONAL SERVICES, SUPPLY MATERIAL OR EQUIPMENT OR THE DATE ON WHICH EMPLOYEE BENEFIT CONTRIBUTIONS BECAME DUE:
- 3. NAME OF PERSON INDEBTED TO THE CLAIMANT:
- 4. DESCRIPTION OF THE PROPERTY AGAINST WHICH A LIEN IS CLAIMED (Street address, legal description or other information that will reasonably describe the property):
- 5. NAME OF THE OWNER OR REPUTED OWNER (If not known state "unknown"):
- 6. THE LAST DATE ON WHICH LABOR WAS PERFORMED; PROFESSIONAL SERVICES WERE FURNISHED; CONTRIBUTIONS TO AN EMPLOYEE BENEFIT PLAN WERE DUE; OR MATERIAL, OR EQUIPMENT WAS FURNISHED:
- 7. PRINCIPAL AMOUNT FOR WHICH THE LIEN IS CLAIMED ((~~IS~~)) (EXCLUDING INTEREST, LATE FEES, COLLECTION FEES, LIEN RECORDING FEES, ATTORNEYS' FEES, OR OTHER COSTS OR CHARGES OTHER THAN THE PRINCIPAL BALANCE OWED):
- 8. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE:
....., Claimant
.....
.....
(Phone number, address, city, and

STATE OF WASHINGTON, COUNTY OF, ss.

....., being sworn, says: I am the claimant ((for attorney of the claimant, or administrator, representative, or agent of the trustees of an employee benefit plan)) or person authorized to act on behalf of the claimant above named; I have read or heard and understand the foregoing claim, read and know the contents thereof, and believe the same to be true and correct and that the claim of lien is not frivolous and is made with reasonable cause, and is not clearly excessive under penalty of perjury.

Subscribed and sworn to before me this day of

(3) The period provided for recording the claim of lien is a period of limitation and no action to foreclose a lien shall be maintained unless the claim of lien is filed for recording within the ninety-day period stated. The lien claimant shall give a copy of the claim of lien to the owner or reputed owner by mailing it by certified or registered mail or by personal service within fourteen days of the time the claim of lien is filed for recording. Failure to do so results in a forfeiture of any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181.

(4) A lien claimant that, for any reason, includes any interest, late fee, cost, attorneys' fees, or similar charges as part of the principal amount for which the lien is claimed shall be deemed to have waived any right under contract or otherwise to such charges, and shall also forfeit any right the claimant may have to attorneys' fees and costs against the owner under RCW 60.04.181.

Sec. 6. FORECLOSURE. RCW 60.04.171 and 1992 c 126 s 11 are each amended to read as follows:

(1) The lien provided by this chapter, for which claims of lien have been recorded, may be foreclosed and enforced by a civil action in the court having jurisdiction in the manner prescribed for the judicial foreclosure of a mortgage.

(a) Except as provided in (b) of this subsection, the court shall have the power to order the sale of the property.

(b) In an action involving an improvement to an owner-occupied single-family residence, the court may not order the sale of property or removal of the improvement to the residence unless the court finds that the lien claimant has made reasonable efforts to recover its claim from the prime residential contractor or residential subcontractor, and any sureties.

(2) In any action brought to foreclose a lien, the owner shall be joined as a party. The interest in the real property of any person who, prior to the commencement of the action, has

a recorded interest in the property, or any part thereof, shall not be foreclosed or affected unless they are joined as a party.

(3) A person shall not begin an action to foreclose a lien upon any property while a prior action begun to foreclose another lien on the same property is pending, but if not made a party plaintiff or defendant to the prior action, he or she may apply to the court to be joined as a party thereto, and his or her lien may be foreclosed in the same action. The filing of such application shall toll the running of the period of limitation established by RCW 60.04.141 until disposition of the application or other time set by the court. The court shall grant the application for joinder unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions as the court deems just. If a lien foreclosure action is filed during the pendency of another such action, the court may, on its own motion or the motion of any party, consolidate actions upon such terms and conditions as the court deems just, unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions. If consolidation of actions is not permissible under this section, the lien foreclosure action filed during the pendency of another such action shall not be dismissed if the filing was the result of mistake, inadvertence, surprise, excusable neglect, or irregularity. An action to foreclose a lien shall not be dismissed at the instance of a plaintiff therein to the prejudice of another party to the suit who claims a lien.

Sec. 7. INFORMATIONAL MATERIALS ON CONSTRUCTION LIEN LAWS; COPIES; LIABILITY. RCW 60.04.255 and 1988 c 270 s 2 are each amended to read as follows:

(1) Every real property lender shall provide a copy of the informational material described in RCW 60.04.250 to all persons obtaining loans, the proceeds of which are to be used for residential construction or residential repair or remodeling.

(2) Every contractor shall provide a copy of the informational material described in RCW 60.04.250 to customers required to receive contractor disclosure notice under RCW 18.27.114.

(3) Before issuing building permits for improvements to single-family residences of residential homeowners, every permitting agency shall require residential homeowners to acknowledge personally and in writing that they received a copy of the informational material described in RCW 60.04.250. The permitting agency shall retain a copy of such acknowledgments in the permitting agency's files relating to the residential homeowners' permit applications.

(4) No cause of action may lie against the state, a real property lender, ~~((or))~~ a contractor, or a permitting agency arising from the provisions of RCW 60.04.250 and this section.

~~((+))~~ (5) For the purpose of this section, "real property lender" means a bank, savings bank, savings and loan association, credit union, mortgage company, or other

corporation, association, partnership, or individual that makes loans secured by real property in this state.

NEW SECTION. Sec. 8. LEGISLATIVE TASK FORCE. (1) A joint legislative task force is created to review laws governing mechanics' and materialmen's liens, as set forth in chapter 60.04 RCW, and laws governing contractor registration, as set forth in chapter 18.27 RCW, and to consider how such laws can better protect residential homeowners involved in the construction or remodeling of their homes.

(2) The task force membership shall consist of:

(a) One member from each caucus of the senate, appointed by the president of the senate;

(b) One member from each caucus of the house of representatives, appointed by the speaker of the house of representatives;

(c) Representatives of residential homeowners, prime residential contractors, residential subcontractors, and suppliers appointed jointly by the president of the senate and the speaker of the house of representatives; and

(d) A representative of the department of labor and industries.

(3) The department shall cooperate with the task force and provide such technical expertise as the task force chair may reasonably require.

(4) The study shall review at least the following:

(a) Strategies for making residential homeowners more aware of the potential for liens against their homes if prime residential contractors fail to pay suppliers and residential subcontractors as promised;

(b) Opportunities for helping residential homeowners become better educated about ways to protect themselves from financial mismanagement by prime residential contractors who do not comply with industry standards for financial management; and

(c) Other proposals, including revisions to laws governing mechanics' and materialmen's liens, to protect the interests of residential homeowners and others involved in the construction or remodeling of homes.

(5) The task force shall use legislative facilities and staff from senate committee services and the office of program research. Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060, such reimbursement to be paid jointly by the senate and the house of representatives.

(6) The task force shall report its findings and recommendations to the legislature by December 1, 2005.

(7) This section expires April 1, 2006.

NEW SECTION. Sec. 9. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 10. EFFECTIVE DATES.

(1) Sections 2 through 7 of this act take effect July 1, 2006.

(2) Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5775 Prime Sponsor, Senate Committee on Transportation: Authorizing the creation of a small city or town street and sidewalk improvement program. Reported by Committee on Transportation

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

Passed to Committee on Rules for second reading.

March 31, 2005

2SSB 5782 Prime Sponsor, Senate Committee on Ways & Means: Modifying provisions of the linked deposit program. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

"Sec. 2. RCW 43.86A.030 and 1993 c 512 s 33 are each amended to read as follows:

(1) Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in

qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) The state treasurer may use up to (~~fifty~~) one hundred million dollars per year of all funds available under this section for the purposes of RCW 43.86A.060. The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly."

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

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 Finance.

March 31, 2005

ESSB 5788 Prime Sponsor, Senate Committee on Water, Energy & Environment: Improving 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. It is the intent of the legislature to improve recycling, eliminate illegal disposal of recyclable materials, protect consumers from sham recycling, and to further the purposes of RCW 70.95.020 and the goal of consistency in jurisdictional treatment of the statewide solid waste management plan adopted by the department of ecology.

Sec. 2. RCW 70.95.020 and 1998 c 156 s 1 and 1998 c 90 s 1 are each reenacted and amended to read as follows:

The purpose of this chapter is to establish a comprehensive statewide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling, including that all sites where recyclable materials are generated and transported from shall provide a separate container for solid waste;

(4) To encourage the development and operation of waste recycling facilities needed to accomplish the management priority of waste recycling, ~~((and))~~ to promote consistency in the requirements for such facilities throughout the state, and to ensure that recyclable materials diverted from the waste stream for recycling are routed to facilities in which recycling occurs;

(5) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(6) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state; and

(7) To encourage the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling and to promote consistency in the permitting requirements for such facilities and activities throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

Sec. 3. RCW 70.95.305 and 1998 c 156 s 5 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, the department may by rule exempt from the requirements to obtain a solid waste handling permit any category of solid waste handling facility that it determines to:

(a) Present little or no environmental risk; and

(b) Meet the environmental protection and performance requirements required for other similar solid waste facilities.

(2) This section does not apply to any facility or category of facilities that:

(a) Receives municipal solid waste destined for final disposal, including but not limited to transfer stations, landfills, and incinerators;

(b) Applies putrescible solid waste on land for final disposal purposes;

(c) Handles mixed solid wastes that have not been processed to segregate solid waste materials destined for disposal from other solid waste materials destined for a beneficial use or recycling;

(d) Receives or processes organic waste materials into compost in volumes that generally far exceed those handled by municipal park departments, master gardening programs, and households; or

(e) Receives solid waste destined for recycling or reuse, the operation of which is determined by the department to present risks to human health and the environment.

(3) Rules adopted under this section shall contain such terms and conditions as the department deems necessary to ensure compliance with applicable statutes and rules. If a facility does not operate in compliance with the terms and conditions established for an exemption under subsection (1) of this section, the facility is subject to the permitting requirements for solid waste handling under this chapter.

(4) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on June 11, 1998, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW to read as follows:

(1) For the purposes of this section and section 5 of this act, "transporter" means any person or entity that transports recyclable materials from commercial or industrial generators over the public highways of the state of Washington for compensation, and who are required to possess a permit to operate from the Washington utilities and transportation commission under chapter 81.80 RCW. "Transporter" includes commercial recycling operations of certificated solid waste collection companies as provided in chapter 81.77 RCW. "Transporter" does not include:

(a) Carriers of commercial recyclable materials, when such materials are owned or being bought or sold by the entity or person, and being carried in their own vehicle, when such activity is incidental to the conduct of an entity or person's primary business;

(b) Entities or persons hauling their own recyclables or hauling recyclables they generated or purchased and transported in their own vehicles;

(c) Nonprofit or charitable organizations collecting and transporting recyclable materials from a buyback center, drop box, or from a commercial or industrial generator of recyclable materials;

(d) City municipal solid waste departments or city solid waste contractors; or

(e) Common carriers under chapter 81.80 RCW whose primary business is not the transportation of recyclable materials.

(2) All transporters shall register with the department prior to the transportation of recyclable materials. The department shall supply forms for registration.

(3) A transporter who transports recyclable materials within the state without a transporter registration required by this section is subject to a civil penalty in an amount up to one thousand dollars per violation.

NEW SECTION. Sec. 5. A new section is added to chapter 70.95 RCW to read as follows:

(1) A transporter may not deliver any recyclable materials for disposal to a transfer station or landfill. A transporter may deliver recyclable materials to an intermediate solid waste handling facility that maintains recyclable materials in a source separated state and further processes and markets the recyclable materials for recycling.

(2) A transporter shall keep records of locations and quantities specifically identified in relation to a generator's name, service date, address, and invoice, documenting where recyclables have been sold, delivered for processing, or otherwise marketed. These records must be retained for two years from the date of collection, and must be made accessible for inspection by the department and the local health department.

(3) A transporter who violates the provisions of this section is subject to a civil penalty of up to one thousand dollars per violation.

NEW SECTION. Sec. 6. A new section is added to chapter 70.95 RCW to read as follows:

Any person damaged by a violation of sections 4 through 8 of this act may bring a civil action for such a violation by seeking either injunctive relief or damages, or both, in the superior court of the county in which the violation took place or in Thurston county. The prevailing party in such an action is entitled to reasonable costs and attorneys' fees, including those on appeal.

NEW SECTION. Sec. 7. A new section is added to chapter 70.95 RCW to read as follows:

(1) All facilities that recycle solid waste, except for those facilities with a current solid waste handling permit issued under RCW 70.95.170, must notify the department in writing within thirty days prior to operation, or ninety days from the effective date of this section for existing recycling operations, of the intent to conduct recycling in accordance with this section. Notification must be in writing, and include:

- (a) Contact information for the person conducting the recycling activity;
- (b) A general description of the recycling activity;
- (c) A description of the types of solid waste being recycled; and
- (d) A general explanation of the recycling processes and methods.

(2) Each facility that recycles solid waste, except those facilities with a current solid waste handling permit issued under RCW 70.95.170, shall prepare and submit an annual report to the department by April 1st on forms supplied by the department. The annual report must detail recycling activities during the previous calendar year and include the following information:

- (a) The name and address of the recycling operation;
- (b) The calendar year covered by the report;
- (c) The annual quantities and types of waste received, recycled, and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and
- (d) Any additional information required by written notification of the department that is needed to determine progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4).

(3) Any facility, except for product take-back centers, that recycles solid waste materials within the state without first obtaining a solid waste handling permit under RCW 70.95.170 or completing a notification under this section is subject to a civil penalty of up to one thousand dollars per violation.

NEW SECTION. Sec. 8. A new section is added to chapter 70.95 RCW to read as follows:

(1) The department may adopt rules that establish financial assurance requirements for recycling facilities that do not already have financial assurance requirements under this chapter, or are not already specifically exempted from financial assurance requirements under this chapter. The financial assurance requirements must take into consideration the amounts and types of recyclable materials recycled at the facility, and the potential closure and postclosure costs associated with the recycling facility; which assurance may consist of posting of a surety bond in an amount sufficient to meet these requirements or other financial instrument, but in no case less than ten thousand dollars.

(2) A recycling facility is required to meet financial assurance requirements adopted by the department by rule, unless the facility is already required to provide financial assurance under other provisions of this chapter.

(3) Facilities that collect, recover, process, or otherwise recycle scrap metal, processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal are exempt from the requirements of this section.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; DeBolt; Dickerson; Eickmeyer; Hunt and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5789 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Expanding the role of self-insurers in the workers' compensation system. Reported by Committee on Commerce & Labor

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

Passed to Committee on Rules for second reading.

April 1, 2005

SSB 5802 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Requiring pay equity for community and technical college part-time faculty. Reported by Committee on Higher 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; Jarrett; Ormsby; Priest and Roberts.

Passed to Committee on Appropriations.

March 29, 2005

SB 5803 Prime Sponsor, Senator McAuliffe: Promoting internet safety. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended.

On page 1, line 17, after "The" insert "Washington state school"

Signed by Representatives Morris, Chairman; Kilmer, Vice Chairman; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks; Hudgins; Nixon; P. Sullivan; Sump; Takko and Wallace.

Passed to Committee on Appropriations.

March 31, 2005

ESSB 5806 Prime Sponsor, Senate Committee on Human Services & Corrections: Requiring child care agencies to provide additional information to parents. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass as amended.

On page 6, line 32, after "day care." insert "Family day-care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b), (c), or (d) of this subsection."

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Walsh, Assistant Ranking Minority Member; Darneille; Dickerson; Haler and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Dunn

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5814 Prime Sponsor, Senator Prentice: Authorizing the governor to enter into cigarette tax contracts with additional tribes. 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; Conway; Ericksen; Hasegawa and Santos.

Passed to Committee on Rules for second reading.

March 30, 2005

SSB 5828 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Regarding digital or online learning. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.150 RCW to read as follows:

(1) The legislature finds that digital learning courses and programs can provide students with opportunities to study subjects that may not otherwise be available within the students' schools, school districts, or communities. These courses can also meet the instructional needs of students who have scheduling conflicts, students who learn best from technology-based instructional methods,

and students who have a need to enroll in schools on a part-time basis. Digital learning courses can also meet the needs of students and families seeking nontraditional learning environments. The legislature further finds that the state rules used by school districts to support some digital learning courses were adopted before these types of courses were created, so the rules are not well-suited to the delivery of online instruction. As a result, at least one school district has received an audit exception for the way the district operated and accounted for its digital learning courses. It is the intent of the legislature to clarify the requirements for digital learning courses and to give school districts and the auditors a common set of guidelines for their delivery and funding.

(2) The board of directors of a school district may operate digital learning programs for eligible full-time students, or eligible part-time students who meet the provisions of RCW 28A.150.350. The board of directors may also provide such programs through contract to the extent permitted under RCW 28A.150.305. The board of directors of a school district claiming state funding for digital learning programs shall:

(a) Adopt and periodically review written policies for such programs;

(b) Formally approve programs that rely primarily on digital curriculum;

(c) Require that individual courses offered primarily through digital curriculum be approved by a designated school district official;

(d) Receive an annual report on its digital learning programs from its staff. The report should include, at a minimum, information included in guidelines provided by the superintendent of public instruction;

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

(f) Grant credit to a student who successfully demonstrates, through examination, project completion, or other performance-based methods instead of counting contact hours, that the student has successfully completed a course;

(g) Complete any program evaluation requirement adopted by the superintendent of public instruction under subsection (5)(d) of this section;

(h) Report annually to the superintendent of public instruction on the number of its digital learning programs and courses, the number of students enrolled in the programs or courses, and a documented report of the district of the students' physical residence;

(i) Define a full-time equivalent student under RCW 28A.150.260 and a part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours; and

(j) Periodically complete a self-evaluation component designed to objectively measure the effectiveness of the programs, including the impact of the courses on student learning and achievement.

(3) Digital learning courses must provide each student with:

(a) Direct personal contact with certificated staff designated by either the school district or by the contractor with the approval of the school district. The direct personal contact shall occur each week until the student successfully completes the course requirements. Direct personal contact is for the purposes of instruction, assignment review, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive computer, or interactive video communication;

(b) A description of course objectives monitored by certificated staff, including information on the requirements a student must meet to successfully complete the programs or courses;

(c) Information on the ways the courses or programs are aligned to the state's grade level expectations that are assessed on the Washington assessment of student learning and, for high school courses, whether and how the courses meet state and district graduation requirements; and

(d) An assessment of each student's progress at least annually using, for full-time students, the state assessment for the student's grade level and any other annual assessment required by the school district. Part-time students shall also be assessed at least annually. Part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the state assessments required under chapter 28A.655 RCW.

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

(5) The office of the superintendent of public instruction shall adopt rules for the implementation of this section, including program implementation standards and enrollment documentation and reporting as follows:

(a) Each school district shall receive apportionment generated in accordance with this chapter based upon the student full-time equivalent enrollment reported for this program but no student is counted in one year for more than one full-time equivalent in the aggregate;

(b) For funding purposes, enrollment shall be determined based upon the learning activities specified in the digital course objectives, including the estimated average weekly hours spent by each individual student participating in a digital program; and

(c) Enrollment of part-time students shall be subject to the provisions of RCW 28A.150.350, and shall generate the pro rata share of full-time funding."

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

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5831 Prime Sponsor, Senator Morton: Concerning well construction. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Blake; Buri; Chase; Clibborn; Grant; Haler; Kenney; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow; P. Sullivan and Wallace.

MINORITY recommendation: Do not pass. Signed by Representatives Kristiansen, Ranking Minority Member; Dunn and Holmquist

Passed to Committee on Appropriations.

March 31, 2005

SSB 5841 Prime Sponsor, Senate Committee on Health & Long-Term Care: Providing for the prevention, diagnosis, and treatment of asthma. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

On page 2, line 29, after "procedures" strike "and asthma prevention policies"

Beginning on page 3, line 35, strike all of section 3

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

On page 4, line 31, after "plans," insert "On January 1, 2007, and January 1, 2009, the authority shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases."

On page 5, beginning on line 1, strike all of section 5 and insert the following:

"NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in collaboration with its public and private partners, shall design a state asthma plan.

(2) The plan shall include recommendations in the following areas:

(a) Evidence-based processes for the prevention and management of asthma;

(b) Data systems that support asthma prevalence reporting, including population disparities;

(c) Quality improvement strategies addressing the successful diagnosis and treatment of the disease; and

(d) Cost estimates and sources of funding for plan implementation.

(3) The department shall submit the completed state plan to the governor and the legislature by December 1, 2005. After the initial state plan is submitted, the department shall provide progress reports to the governor and the legislature on a biennial basis beginning December 1, 2007.

(4) The department shall implement the state plan recommendations made under subsection (2) of this section only to the extent that federal, state, or private funds, including grants, are available for that purpose."

Correct the title.

Signed by Representatives Cody, Chairman; Campbell, Vice Chairman; Bailey, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander;

Appleton; Clibborn; Green; Hinkle; Lantz; Moeller; Morrell and Schual-Berke.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5850 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Clarifying the definition of "sick leave" for family leave. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 1, beginning on line 18, strike all of subsection (5) and insert the following:

"(5)(a) "Sick leave or other paid time off" means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for illness, vacation, and personal holiday. If paid time is not allowed to an employee for illness, "sick leave or other paid time off" also means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for disability under practices not covered by the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq.

(b) "Sick leave or other paid time off" does not mean time allowed to an employee under plans covered by the employee retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq."

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Rules for second reading.

March 30, 2005

SB 5857 Prime Sponsor, Senator Prentice: Authorizing a business and occupation tax deduction for certain nonprofit community health centers. 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; Conway; Ericksen; Hasegawa and Santos.

Passed to Committee on Rules for second reading.

March 31, 2005

SB 5869 Prime Sponsor, Senator Swecker: Concerning planting of certain trout. 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; DeBolt; Dickerson; Eickmeyer; Hunt; Orcutt and Williams.

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5872 Prime Sponsor, Senate Committee on Human Services & Corrections: Requiring findings and recommendations regarding a department of family and children's services. (REVISED FOR ENGROSSED: Creating a task force on the administrative organization, structure, and delivery of services to children and families.) 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. Under the direction of the joint task force created in section 2 of this act, the Washington state institute for public policy shall conduct a study to determine the most appropriate and effective administrative structure for delivery of social and health services to the children and families of the state, including how best to ensure that an administrative structure has defined lines of responsibility for delivering services to children and families in need and the best means for the public to hold government accountable for delivery of those services. The institute shall compare the effectiveness of: Including social and health services to children and families within an umbrella agency, such as the current department of social and health services; establishing a separate agency for social and health services to children and families whose administrator reports directly to the governor; or creating a children and family services cabinet reporting directly to the governor. The institute shall, as part of the comparison, examine the administrative structures used in other states to deliver social and health services to children and families.

NEW SECTION. Sec. 2. (1) A joint task force is created to determine the most appropriate and effective administrative structure for delivery of social and health services to the children and families of the state. The joint task force shall direct the study conducted by the Washington state institute for public policy pursuant to this act. Membership of the joint task force shall consist of the following:

(a) The dean of the school of social work at the University of Washington or an academic professor from a list recommended by the dean, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee;

(b) Two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the majority caucus and one of whom shall be a member of the minority caucus, and two members of the senate appointed by the president of the senate, one of whom shall be a member of the

majority caucus and one of whom shall be a member of the minority caucus;

(c) The secretary of the department of social and health services or the secretary's designee;

(d) An individual with previous experience as an administrator of a public agency providing services to children and families, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee;

(e) A juvenile court administrator, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee;

(f) A family superior court judge, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee;

(g) The director of the office of the family and children's ombudsman;

(h) A social worker with experience in the public sector serving children and families, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee; and

(i) Two representatives of community-based providers serving children and families, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee.

(2) The dean of the school of social work at the University of Washington or the academic professor, jointly appointed by the chairs of the house children and family services committee and the senate human services and corrections committee, shall be the chair of the joint task force.

NEW SECTION. Sec. 3. (1) The Washington state institute for public policy shall make recommendations concerning which administrative structure or structures would best realize efficiencies in administration and best achieve positive outcomes for children and families, including, but not limited to, the following:

(a) Reducing the number of children at risk for abuse or neglect and increasing the safety and well-being of children;

(b) Increasing the ability of families to care for their own children and reducing the number of children in foster care;

(c) Increasing placement stability and permanency for children in out-of-home care and reducing unsafe and inappropriate placements;

(d) Delivering appropriate and timely mental health services;

(e) Providing adequate and appropriate staff training and education;

(f) Promoting foster parent recruitment, training, and retention;

(g) Reducing the frequency and duration of sibling separation;

(h) Delivering adequate and timely services to adolescents; and

(i) Increasing responsibility and accountability for achieving goals.

(2) The institute shall also make recommendations concerning the costs, benefits, savings, or reductions in services associated with the various administrative structures considered in the study.

NEW SECTION. Sec. 4. The institute shall report its recommendations to the joint task force created in section 2 of this act by December 1, 2005."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Hinkle, Ranking Minority Member; Walsh,

Assistant Ranking Minority Member; Darneille; Dickerson; Dunn; Haler and Pettigrew.

Passed to Committee on Appropriations.

April 1, 2005

SSB 5895 Prime Sponsor, Senate Committee on Water, Energy & Environment: Increasing coordination between the Puget Sound recovery partnership and other governmental entities. 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. (1) The legislature intends to improve the overall efforts to conserve and recover Puget Sound by enhancing coordination and integration of the planning, budgeting, and program activities of entities with responsibilities under the Puget Sound recovery management plan. The goals of this act are to:

(a) Foster and improve overall coordination and implementation of Puget Sound conservation and recovery efforts among all levels of government and the private sector, in part through developing and implementing the Puget Sound recovery management plan and biennial work plans;

(b) Improve the coordination among federal, state, local, and tribal agencies and initiatives in order to better set priorities, adopt and implement work plans for protecting and restoring Puget Sound, and improve allocation of resources for these purposes;

(c) Adopt performance measures and improve accountability for results and expenditures in plan implementation;

(d) Prepare a budget that is scaled to appropriate timelines for achieving Puget Sound conservation, recovery, and prevention of further degradation, and ensure that this budget is considered when adopting state biennial budgets;

(e) Revitalize a Sound-wide planning and implementation framework that integrates state agency activities with other Puget Sound protection and restoration activities;

(f) Increase citizen involvement and oversight; and

(g) Increase representation of nonstate agency interests and organized Puget Sound restoration programs on the Puget Sound council.

(2) The legislature also finds that the counties, cities, and special purpose units of local government have major responsibilities regarding the management, protection, and cleanup of surface waters draining to Puget Sound, and other land use planning, habitat protection, infrastructure, and public health and safety responsibilities that form the foundation for the comprehensive and coordinated strategy set forth in the 2000 Puget Sound water quality management plan. The Puget Sound water quality action team is presently composed of ten state agency representatives and only two local government representatives, and does not adequately reflect the major responsibilities for water quality and habitat protection carried out by local governments. Therefore it is the purpose of this act to strengthen the local government membership on the Puget Sound water quality action team, renamed the Puget Sound recovery

partnership, and to improve the partnership with local governments carrying out elements of the Puget Sound plan.

Sec. 2. RCW 90.71.005 and 1998 c 246 s 13 are each amended to read as follows:

(1) The legislature finds that:

(a) Puget Sound and related inland marine waterways of Washington state represent a unique and unparalleled resource. A rich and varied range of marine organisms, comprising an interdependent, sensitive communal ecosystem reside in these sheltered waters. Residents of this region enjoy a way of life centered around the waters of Puget Sound, featuring accessible recreational opportunities, world-class port facilities and water transportation systems, harvest of marine food resources, shoreline-oriented life styles, water-dependent industries, tourism, irreplaceable aesthetics, and other activities, all of which to some degree depend upon a clean and healthy marine resource;

(b) The Puget Sound (~~(water quality authority)~~) action team has done an excellent job in developing a comprehensive plan to identify actions to restore and protect the biological health and diversity of Puget Sound;

(c) While much excellent work has been done around the Puget Sound to protect and restore its resources, the scale of the efforts is not yet commensurate with the scale of the challenges, and heightened and improved efforts are needed if the long-term viability of Puget Sound is to be ensured;

(d) The large number of federal, state, and local governmental entities that (~~now~~) have management, infrastructure, and regulatory programs and initiatives affecting the water quality of Puget Sound and its habitats have diverse interests and limited jurisdictions that (~~cannot adequately~~) require coordination to address the cumulative, wide-ranging impacts that contribute to the degradation of Puget Sound; and

~~((†))~~ (e) Coordination of (the regulatory) these programs and initiatives, at the state, federal, and local levels, is best accomplished through the development of an interagency mechanism(s), including representatives of local governments within the Puget Sound basin, that allow these entities to transcend their diverse interests and limited jurisdictions.

(2)(a) It is therefore the policy of the state of Washington to coordinate the activities of state, federal, and local agencies by establishing a partnership for Puget Sound with the following goals: To protect and restore Puget Sound's water quality; to protect and restore habitat for all native species in Puget Sound; and to protect the biological resources of Puget Sound and recover species at risk. The partnership shall develop and update as necessary the Puget Sound recovery management plan, a comprehensive and inclusive plan for Puget Sound that describes the problems and priority areas for action and describes the roles and responsibilities of the various federal, state, and local agencies in undertaking the necessary actions as provided in section 4 of this act.

(b) To implement the plan, the partnership shall develop and implement a biennial work plan that clearly delineates state and (local) other actions at the level of effort necessary to protect and restore the biological health and diversity of Puget Sound. It is further the policy of the state to implement that work plan and the Puget Sound ((water quality)) recovery management plan to the maximum extent possible. To further the policy of the state, ((a recovery)) applicable sections of any water quality cleanup plan, fish or wildlife recovery plan, or other watershed health plan or plans developed under ((the)) federal ((endangered species act)), state, or local authority for a portion or all of the Puget Sound ((staff)) may

be considered for inclusion into the Puget Sound ((water quality)) recovery management plan. Nothing in this section alters, affects, or replaces the approval and oversight processes related to the other plans considered for inclusion in the Puget Sound recovery management plan.

Sec. 3. RCW 90.71.010 and 1996 c 138 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) "Action team" means the ~~((Puget Sound water quality action team))~~ staff to the partnership.

(2) "Chair" means the chair of the partnership, who also serves as the executive director of the action team.

(3) "Council" means the Puget Sound council created in RCW 90.71.030.

(4) "Partnership" means the Puget Sound recovery partnership described in RCW 90.71.020.

(5) "Plan" or "Puget Sound recovery management plan" means the ~~((1994))~~ 2000 Puget Sound water quality management plan ((as it exists June 30, 1996, and)) described in section 4 of this act, as subsequently amended by the ((action team)) partnership.

~~((5)) "Support staff" means the staff to the action team;~~

(6) "Puget Sound" means Puget Sound and related inland marine waterways including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca.

(7) "Work plan" means the work plan and budget developed by the action team and the partnership.

NEW SECTION. Sec. 4. A new section is added to chapter 90.71 RCW to read as follows:

(1) The Puget Sound recovery management plan adopted by the partnership shall be a comprehensive document that describes the problems and priority areas for action to achieve the goals of the maintenance and enhancement of Puget Sound water quality, protection and restoration of habitat, and maintenance of Puget Sound's biological resources. The plan shall provide a clear and compelling case statement of the problems affecting Puget Sound's health and the actions needed to conserve and recover Puget Sound. The plan shall further describe the roles and responsibilities of the various federal, state, and local agencies in undertaking the necessary actions. The plan shall address all the waters of Puget Sound and related inland marine waters, including portions of the Strait of Juan de Fuca and the Strait of Georgia within the state, and, to the extent that they affect water quality and habitat in Puget Sound, all waters flowing into Puget Sound and related inland marine waters and adjacent lands. The partnership may define specific geographic boundaries within which the plan applies. The plan shall incorporate to the extent feasible existing planning and research efforts and conservation and recovery initiatives of state agencies and local government related to Puget Sound, and shall seek to avoid duplication of existing efforts. The plan shall:

(a) Be organized around the long-term goals for Puget Sound of protecting and restoring Puget Sound's water quality; protecting and restoring habitat for all native species in Puget Sound; and protecting the biological resources of Puget Sound and recovering species at risk;

(b) Be organized by priority areas for attention and action;

(c) Provide detail on the strategies to be used to advance progress in each priority area, set explicit objectives in each priority area, and delineate clear and quantifiable measures of success;

(d) Include timelines for actions in conjunction with the Puget Sound council as provided in subsection (2) of this section;

(e) Assign responsibilities for action in each of the priority areas to federal, state, local, and tribal governments;

(f) Delineate a pathway to success in each priority area within a fifteen-year time frame; and

(g) Include by reference applicable sections of related plans, which shall be included by the partnership only as already approved by the appropriate authorities. Referenced plans must be subject to future changes as provided for by the appropriate authorities.

(2) The council shall work with the partnership to incorporate into the Puget Sound recovery management plan overall timeline goals for accomplishing all elements of the plan. Except for conditions that involve an extraordinary degradation or complexity in restoration, the goals shall establish a restoration timeline of not more than fifteen years from the effective date of this section.

(3) The management plan developed pursuant to this section has no regulatory authority and shall not be the basis of any regulatory action by entities represented on the partnership.

Sec. 5. RCW 90.71.020 and 1998 c 246 s 14 are each amended to read as follows:

(1)(a) The Puget Sound ((action team)) recovery partnership is created. The ((action team)) partnership shall define, coordinate, and implement the state's conservation and recovery agenda for Puget Sound. The partnership shall consist of: The directors of the departments of ecology; agriculture; natural resources; fish and wildlife; and community, trade, and economic development; the ((secretaries)) secretary of the department((s)) of health ((and transportation; the director of the parks and recreation commission; the director of the interagency committee for outdoor recreation; the administrative officer of the conservation commission designated in RCW 89.08.050; one person)); the administrative officer of the conservation commission; two people representing cities, appointed by the governor; one person representing special purpose governments, appointed by the governor; two people representing counties, appointed by the governor; ((one person)) two people representing federally recognized tribes, appointed by the governor; and the ((chair)) executive director of the action team, who shall also serve as the chair of the partnership. Gubernatorial appointees shall serve two-year terms. In making the appointments for city, county, and special purpose government representatives, the governor is encouraged to select individuals with experience in local government and expertise in the areas of water quality, habitat, growth management, public health, and transportation, as they relate to conditions and activities affecting the water quality and habitat of Puget Sound.

(b) The following ad hoc, nonvoting members shall serve on the partnership: The secretary of the department of transportation, the director of the parks and recreation commission, the director of the interagency committee for outdoor recreation, and the chair of the Puget Sound council.

(c) The ((action team)) partnership shall also ((include)) invite the following ex officio nonvoting members, among others as deemed appropriate in the future: The regional director of the United States environmental protection agency; the regional administrator of the national marine fisheries service; ((and)) the regional supervisor of the United States fish and wildlife service; the Seattle district commander of the United States army corps of engineers; the regional

administrator of the United States geological survey; the executive director of the northwest straits commission; the chair of the Puget Sound shared strategy; and the executive director of the Hood Canal coordinating council.

(d) The members representing nongovernmental organizations, tribes, cities ((and)) counties, and special purpose governments shall each be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The ((action team)) partnership shall:

(a) Periodically update and amend the Puget Sound recovery management plan, in consultation with the council;

(b) Prepare a Puget Sound work plan and budget ((for inclusion in the governor's biennial budget)), in consultation with the council;

((fb)) (c) Coordinate actions, programs, and initiatives across and among the partner agencies to achieve the objectives of the plan;

(d) Coordinate monitoring and research programs ((as provided in RCW 90.71.060));

((fe)) (e) Consult with local governments in implementing the Puget Sound recovery management plan and biennial work plans, and prioritize attention by the action team upon assisting local governments in obtaining state and federal funding for carrying out local government programs and in effectively coordinating local government programs with those of neighboring local governments and state and federal programs;

(f) Work ((under the direction of)) in cooperation with the ((action team)) partnership chair ((as provided in RCW 90.71.040));

((fd) Coordinate permitting requirements as necessary to expedite permit issuance for any local watershed plan developed pursuant to rules adopted under this chapter;

(e) (g) Identify and resolve any policy or rule conflicts that may exist between one or more agencies represented ((on the action team)) in the partnership;

((ff) Periodically amend the Puget Sound management plan;

(g) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions for the purposes of this chapter;

(h) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the purposes of the action team. The action team may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments;

((i)) (h) Appoint advisory committees as needed to manage efforts on particular issues in Puget Sound and to obtain information regarding conservation efforts around Puget Sound;

(i) Promote extensive public participation, and otherwise seek to broadly disseminate information concerning Puget Sound;

(j) Receive and expend funding from other public agencies; and

(k) ((To reduce costs and improve efficiency, review by December 1, 1996, all requirements for reports and documentation from state agencies and local governments specified in the plan for the purpose of eliminating and consolidating reporting requirements; and

((i) Beginning in December 1998, and every two years thereafter,) Submit a biennial report to the appropriate policy ((and fiscal)) committees of the legislature that provides an update on the overall health of Puget Sound and describes and evaluates the ((successes and shortcomings of)) efforts and actions of the partnership in implementing the current work plan ((relative to the priority problems identified for each geographic area of Puget Sound)) and recommends responsive actions needed to be taken by the legislature.

(3) ((By July 1, 1996, the action team shall begin developing its initial work plan, which shall include the coordination of necessary

support staff)) The partnership may appoint from among its members a team to manage the collaborative work of the partnership.

(4) The ~~((action team))~~ partnership shall incorporate, to the maximum extent possible, the recommendations of the Puget Sound council regarding amendments to the Puget Sound management plan and the work plan.

(5) All proceedings of the ~~((action team))~~ partnership are subject to the open public meetings act under chapter 42.30 RCW.

Sec. 6. RCW 90.71.030 and 1999 c 241 s 3 are each amended to read as follows:

(1) There is established the Puget Sound council composed of ~~((eleven))~~ thirteen members. ~~((Seven))~~ Nine members shall be appointed by the governor. In making these appointments, the governor shall include representation from business, the environmental community, agriculture, the shellfish industry, counties, cities, conservation districts, and the tribes. Two members shall be members of the senate selected by the president of the senate with one member selected from each caucus in the senate, and two members shall be members of the house of representatives selected by the speaker of the house of representatives with one member selected from each caucus in the house of representatives. The legislative members shall be nonvoting members of the council. The executive director of the action team shall be an ex officio, nonvoting member. Appointments to the council shall reflect geographical balance and the diversity of population within the Puget Sound basin. Members shall serve four-year terms. ~~((Of the initial members appointed to the council, two shall serve for two years, two shall serve for three years, and two shall serve for four years. Thereafter members shall be appointed to four-year terms.))~~ Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position being vacated. Nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed as provided in RCW 44.04.120.

(2) The council shall:

(a) Recommend to the ~~((action team))~~ partnership priorities, projects, and activities for inclusion in the biennial work plan;

(b) Recommend to the ~~((action team))~~ partnership coordination of work plan activities with other relevant activities, including but not limited to, agencies' activities other than those funded through the plan, ~~((local))~~ plan ~~((initiatives))~~ elements being implemented by local governments, and governmental and nongovernmental watershed restoration and protection activities; ~~((and))~~

(c) Recommend to the ~~((action team))~~ partnership proposed amendments to the Puget Sound management plan; and

(d) Oversee the implementation of the elements of the work plan that receive funding through legislative provisos of the biennial and supplemental appropriations acts, monitor progress of the partnership agencies in carrying out the work plan, and produce an annual report to the legislature on progress.

(3) ~~((The chair of the action team shall convene the council at least four times per year and shall jointly convene the council and the action team at least two times per year))~~ The executive director of the action team shall provide staff support of at least one full-time equivalent to the council to meet these requirements. The council shall select a chair from among its voting members who will convene the council at least four times a year. Two of these meetings shall be planned in conjunction with the chair of the partnership and shall coincide with meetings of the partnership. The chair of the council shall serve a two-year term, renewable for one term if selected by the council.

Sec. 7. RCW 90.71.040 and 1996 c 138 s 5 are each amended to read as follows:

(1) ~~((By June 1, 1996;))~~ The governor shall appoint a person ~~((in the governor's office))~~ to chair the partnership and serve as the executive director of the action team. The chair shall serve at the pleasure of the governor.

(2) The chair shall be responsible for:

(a) ~~((Organizing))~~ Providing administrative support to the council, and working with the chair of the council to organize the development of the council recommendations;

(b) ~~((Organizing))~~ Administering all the work of the partnership and the action team described in RCW 90.71.020, including the development of the work plan required under RCW 90.71.050;

(c) Presenting a work plan and budget ~~((recommendations))~~ to the governor and the legislature;

(d) Overseeing the implementation of the elements of the work plan that receive funding ~~((through appropriations))~~ by the legislature; ~~((and))~~

(e) ~~((Serving as chair of the council;))~~ Entering into, amending, and terminating contracts and grants with individuals, corporations, or research institutions for the purposes of this chapter; and

(f) Receiving such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the purposes of this chapter, and making expenditures, including any income therefrom, according to the terms of the gifts, grants, or endowments.

(3) The chair of the ~~((action team))~~ partnership shall be a full-time employee responsible for the administration of all functions of the partnership, the action team, and the council ~~((including))~~. Responsibilities include hiring and terminating support staff, budget preparation, contracting, managing grants, coordinating with the governor, the legislature, and other state and local entities, and the delegation of responsibilities as deemed appropriate. The salary of the chair shall be fixed by the governor, subject to RCW 43.03.040.

Sec. 8. RCW 90.71.050 and 1998 c 246 s 15 are each amended to read as follows:

(1)(a) Each biennium, the ~~((action team))~~ partnership shall prepare a Puget Sound work plan and budget for inclusion in the governor's biennial budget and for submission to the legislature. The work plan shall ~~((prescribe))~~: (i) Describe the conservation and restoration priorities in Puget Sound, and (ii) describe the necessary federal, state, and local actions to maintain and enhance Puget Sound water quality, ~~((including but not limited to, enhancement of recreational opportunities, and restoration))~~ protect and restore important habitat, and ensure the viability of a balanced population of indigenous shellfish, fish, and wildlife. The work plan ~~((and budget))~~ shall include specific actions and projects pertaining to salmon recovery plans.

(b) In developing a work plan, the ~~((action team))~~ partnership shall meet the following objectives:

(i) Use the plan elements of the Puget Sound management plan to prioritize ~~((local and))~~ state actions necessary to restore and protect the biological health and diversity of Puget Sound;

(ii) ~~((Consider the problems and priorities identified in local plans))~~ Represent significant activities of the state agencies that contribute to Puget Sound conservation and recovery; and

(iii) Coordinate the work plan activities with other relevant activities, including but not limited to, agencies' activities that have not been funded through the plan, local plans, and governmental and nongovernmental watershed restoration activities.

~~((c))~~ In developing a budget, the action team shall identify:

~~— (i) The total funds to implement local projects originating from the planning process developed for nonpoint pollution; and~~

~~— (ii) The total funds to implement any other projects designed primarily to restore salmon habitat.)~~

(2) In addition to the requirements identified under RCW 90.71.020(2)(~~(a)~~) (b), the work plan and budget shall:

(a) Identify and prioritize ~~((the local and))~~ state actions necessary to address ~~((the))~~ Puget Sound's water quality problems ~~((in the following locations:~~

~~— (i) Area 1: Island and San Juan counties;~~

~~— (ii) Area 2: Skagit and Whatcom counties;~~

~~— (iii) Area 3: Clallam and Jefferson counties;~~

~~— (iv) Area 4: Snohomish, King, and Pierce counties; and~~

~~— (v) Area 5: Kitsap, Mason, and Thurston counties;~~

~~— (b) Provide sufficient), habitat protection and restoration, and species recovery;~~

~~(b) Identify funding ((to characterize local watersheds, provide technical assistance, and implement state responsibilities identified in the work plan. The number and qualifications of staff assigned to each region shall be determined by the types of problems identified pursuant to (a) of this subsection)) needed to address high priority problems;~~

~~(c) ((Provide sufficient)) Recommend actions to local governments;~~

~~(d) Identify funding ((to implement)) needs for implementation and ((coordinate)) coordination of the Puget Sound ambient monitoring plan pursuant to RCW 90.71.060; and~~

~~((d) Provide funds to assist local jurisdictions to implement elements of the work plan assigned to local governments and to develop and implement local plans;~~

~~(e) Provide sufficient funding to provide support staff for the action team; and~~

~~(f)) (c) Describe any proposed amendments to the Puget Sound management plan.~~

(3) The work plan shall be submitted to the governor by September 15th of each even-numbered year and to the appropriate policy ((and fiscal)) committees of the legislature by December 20th of each even-numbered year.

(4) The work plan shall be implemented consistent with the legislative provisos of the biennial appropriation acts.

Sec. 9. RCW 90.71.060 and 1996 c 138 s 7 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the action team and the partnership shall ensure implementation and coordination of the Puget Sound ambient monitoring program established in the Puget Sound management plan. The program shall include, at a minimum:

(1) A research program, including but not limited to methods to provide current research information to managers and scientists, and to establish priorities based on the needs of the partnership members and the action team;

(2) A monitoring program, including baselines, protocols, guidelines, and quantifiable performance measures. In consultation with state agencies, local and tribal governments, and other public and private interests, the action team, working with the council, shall develop and track quantifiable performance measures that can be used by the governor and the legislature to assess the effectiveness over time of programs and actions initiated under the plan to improve and protect Puget Sound water quality, habitat, and biological resources. ~~((The performance measures shall be developed by June 30, 1997.))~~ The performance measures shall include, but not be

limited to a methodology to track the progress of: Fish and wildlife habitat; sites with sediment contamination; wetlands; shellfish beds; and other key indicators of Puget Sound's health. The performance measures should, to the extent possible, be consistent with those developed by state agencies for their reporting requirements to the office of financial management and the legislature. State agencies shall, and local governments are encouraged to, assist the action team in the development and tracking of these performance measures. The performance measures may be limited to a selected geographic area.

NEW SECTION. Sec. 10. A new section is added to chapter 90.71 RCW to read as follows:

The council shall conduct a review of the partnership's proposed biennial work plan in October of each even-numbered year and shall include a budget review and recommendation cover letter to the document when it is presented to the appropriate policy and fiscal committees of the legislature in December. This letter shall specify, among other items, the council's recommendations on appropriate allocations among priorities in the work plan, on the overall levels of funding proposed, and on their adequacy in meeting the timelines established in section 4 of this act.

Sec. 11. RCW 90.71.070 and 1996 c 138 s 8 are each amended to read as follows:

(1) Local governments are ~~((required))~~ encouraged to implement local elements of the biennial work plan ~~((subject to the availability of appropriated funds or other funding sources))~~ and management plan.

(2) The council shall review the progress of work plan implementation ~~((Where prescribed actions have not been accomplished in accordance with the work plan, the))~~ and work cooperatively with responsible ((agency shall submit to the council written explanations for the shortfalls, together with proposed remedies)) local governments and state agencies to address delays or shortfalls in plan implementation.

Sec. 12. RCW 90.71.080 and 1996 c 138 s 9 are each amended to read as follows:

The chairs of the ~~((action team))~~ partnership and council shall jointly hold public hearings to solicit public comment on the work plan.

Sec. 13. RCW 90.71.100 and 2001 c 273 s 3 are each amended to read as follows:

(1) The action team shall establish a shellfish - on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The action team shall provide funds to local health jurisdictions to be used as grants to individuals for improving their on-site sewage systems. The grants may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas. A recipient of a grant shall enter into an agreement with the appropriate local health jurisdiction to maintain the improved on-site sewage system according to specifications required by the local health jurisdiction. The action team shall work closely with local health jurisdictions and shall endeavor to attain geographic equity between Willapa Bay and the Puget Sound when making funds available under this program. For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In the Puget Sound, the action team shall give first priority to areas that are:

(a) Identified as "areas of special concern" under WAC 246-272-01001; or

(b) Included within a shellfish protection district under chapter 90.72 RCW.

(3) In Grays Harbor and Pacific counties, the action team shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The action team and each participating local health jurisdiction shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) The action team may recover the costs to administer this program not to exceed ten percent of the shellfish - on-site sewage grant program.

~~((6) For the 2001-2003 biennium, the action team may use up to fifty percent of the shellfish - on-site sewage grant program funds for grants to local health jurisdictions to establish areas of special concern under WAC 246-272-01001, or for operation and maintenance programs therein, where commercial and recreational uses are present.))~~

Sec. 14. RCW 90.71.900 and 1996 c 138 s 15 are each amended to read as follows:

This ~~((act))~~ chapter may be known and cited as the Puget Sound ~~((water quality protection))~~ recovery partnership act.

NEW SECTION. Sec. 15. A new section is added to chapter 90.71 RCW to read as follows:

All references to the chair of the action team or the action team in the Revised Code of Washington shall be construed to mean the chair of the partnership, who is also the executive director of the action team, when referring to the functions transferred in this section.

Sec. 16. RCW 28B.30.632 and 1990 c 289 s 2 are each amended to read as follows:

(1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and statewide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 ~~((through 28B.30.636))~~ and 28B.30.634 are carried out. They shall consult with the Puget Sound ~~((water quality authority))~~ recovery partnership and ensure consistency with the authority's water quality management plan.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds.

Sec. 17. RCW 43.63A.247 and 1994 c 264 s 25 are each amended to read as follows:

The senior environmental corps is created within the department of community, trade, and economic development. The departments of agriculture, community, trade, and economic development, employment security, ecology, fish and wildlife, health, and natural resources, the parks and recreation commission, and the Puget Sound ~~((water quality authority))~~ recovery partnership shall participate in the administration and implementation of the corps and shall appoint representatives to the council.

Sec. 18. RCW 70.118.090 and 1994 c 281 s 6 are each amended to read as follows:

The department may not use funds appropriated to implement an element of the Puget Sound ~~((water quality authority))~~ recovery partnership work plan to conduct any activity required under chapter 281, Laws of 1994.

Sec. 19. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(f) The recommendations of the Puget Sound ~~((action team))~~ recovery partnership and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for

water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

Sec. 20. RCW 77.60.130 and 2000 c 149 s 1 are each amended to read as follows:

(1) The aquatic nuisance species committee is created for the purpose of fostering state, federal, tribal, and private cooperation on aquatic nuisance species issues. The mission of the committee is to minimize the unauthorized or accidental introduction of nonnative aquatic species and give special emphasis to preventing the introduction and spread of aquatic nuisance species. The term "aquatic nuisance species" means a nonnative aquatic plant or animal species that threatens the diversity or abundance of native species, the ecological stability of infested waters, or commercial, agricultural, or recreational activities dependent on such waters.

(2) The committee consists of representatives from each of the following state agencies: Department of fish and wildlife, department of ecology, department of agriculture, department of health, department of natural resources, Puget Sound (~~(water quality action team)~~) recovery partnership, state patrol, state noxious weed control board, and Washington sea grant program. The committee shall encourage and solicit participation by: Federally recognized tribes of Washington, federal agencies, Washington conservation organizations, environmental groups, and representatives from industries that may either be affected by the introduction of an aquatic nuisance species or that may serve as a pathway for their introduction.

(3) The committee has the following duties:

(a) Periodically revise the state of Washington aquatic nuisance species management plan, originally published in June 1998;

(b) Make recommendations to the legislature on statutory provisions for classifying and regulating aquatic nuisance species;

(c) Recommend to the state noxious weed control board that a plant be classified under the process designated by RCW 17.10.080 as an aquatic noxious weed;

(d) Coordinate education, research, regulatory authorities, monitoring and control programs, and participate in regional and national efforts regarding aquatic nuisance species;

(e) Consult with representatives from industries and other activities that may serve as a pathway for the introduction of aquatic nuisance species to develop practical strategies that will minimize the risk of new introductions; and

(f) Prepare a biennial report to the legislature with the first report due by December 1, 2001, making recommendations for better accomplishing the purposes of this chapter, and listing the accomplishments of this chapter to date.

(4) The committee shall accomplish its duties through the authority and cooperation of its member agencies. Implementation of all plans and programs developed by the committee shall be through the member agencies and other cooperating organizations.

Sec. 21. RCW 77.85.210 and 2001 c 298 s 3 are each amended to read as follows:

(1) The monitoring oversight committee is hereby established. The committee shall be comprised of the directors or their designated representatives of:

(a) The salmon recovery office;

(b) The department of ecology;

(c) The department of fish and wildlife;

(d) The conservation commission;

(e) The Puget Sound (~~(action team)~~) recovery partnership;

(f) The department of natural resources;

(g) The department of transportation; and

(h) The interagency committee for outdoor recreation.

(2) The director of the salmon recovery office and the chair of the salmon recovery funding board, or their designees, shall cochair the committee. The cochairs shall convene the committee as necessary to develop, for the consideration of the governor and legislature, a comprehensive and coordinated monitoring strategy and action plan on watershed health with a focus on salmon recovery. The committee shall invite representation from the treaty tribes to participate in the committee's efforts. In addition, the committee shall invite participation by other state, local, and federal agencies and other entities as appropriate. The committee shall address the monitoring recommendations of the independent science panel provided under RCW 77.85.040(7) and of the joint legislative audit and review committee in its report number 01-1 on investing in the environment.

(3) The independent science panel shall act as an advisor to the monitoring oversight committee and shall review all work products developed by the committee and make recommendations to the committee cochairs.

(4) A legislative steering committee is created consisting of four legislators. Two of the legislators shall be members of the house of representatives, each representing different major political parties, appointed by the co-speakers of the house of representatives. The other two legislators shall be members of the senate, each representing different major political parties, appointed by the president of the senate. The monitoring oversight committee shall provide briefings to the legislative steering committee on a quarterly basis on the progress that the oversight committee is making on the development of the coordinated monitoring strategy and action plan, and the establishment of an adaptive management framework. The briefings shall include information on how the monitoring strategy will be coordinated with other government efforts, expected benefits and efficiencies that will be achieved, recommended funding sources and funding levels that will ensure stable sources of funding for monitoring, and the efforts and cooperation provided by agencies to improve coordination of their activities.

(5) The committee shall make recommendations to individual agencies to improve coordination of monitoring activities.

(6) The committee shall:

(a) Define the monitoring goals, objectives, and questions that must be addressed as part of a comprehensive statewide salmon recovery monitoring and adaptive management framework;

(b) Identify and evaluate existing monitoring activities for inclusion in the framework, while ensuring data consistency and coordination and the filling of monitoring gaps;

(c) Recommend statistical designs appropriate to the objectives;

(d) Recommend performance measures appropriate to the objectives and targeted to the appropriate geographical, temporal, and biological scales;

(e) Recommend standardized monitoring protocols for salmon recovery and watershed health;

(f) Recommend procedures to ensure quality assurance and quality control of all relevant data;

(g) Recommend data transfer protocols to support easy access, sharing, and coordination among different collectors and users;

(h) Recommend ways to integrate monitoring information into decision making;

(i) Recommend organizational and governance structures for oversight and implementation of the coordinated monitoring framework;

(j) Recommend stable sources of funding that will ensure the continued operation and maintenance of the state's salmon recovery and watershed health monitoring programs, once established; and

(k) Identify administrative actions that will be undertaken by state agencies to implement elements of the coordinated monitoring program.

(7) In developing the coordinated monitoring strategy, the committee shall coordinate with other appropriate state, federal, local, and tribal monitoring efforts, including but not limited to the Northwest power planning council, the Northwest Indian fisheries commission, the national marine fisheries service, and the United States fish and wildlife service. The committee shall also consult with watershed planning units under chapter 90.82 RCW, lead entities under this chapter, professional organizations, and other appropriate groups.

(8) The cochairs shall provide an interim report to the governor and the members of the appropriate legislative committees by March 1, 2002, on the progress made in implementing this section. By December 1, 2002, the committee shall provide a monitoring strategy and action plan to the governor, and the members of the appropriate legislative committees for achieving a comprehensive watershed health monitoring program with a focus on salmon recovery. The strategy and action plan shall document the results of the committee's actions in addressing the responsibilities described in subsection (6) of this section. In addition, the monitoring strategy and action plan shall include an assessment of existing state agency operations related to monitoring, evaluation, and adaptive management of watershed health and salmon recovery, and shall recommend any operational or statutory changes and funding necessary to fully implement the enhanced coordination program developed under this section. The plan shall make recommendations based upon the goal of fully realizing an enhanced and coordinated monitoring program by June 30, 2007.

Sec. 22. RCW 79.90.550 and 1987 c 259 s 1 are each amended to read as follows:

The legislature finds that the department of natural resources provides, manages, and monitors aquatic land disposal sites on state-owned aquatic lands for materials dredged from rivers, harbors, and shipping lanes. These disposal sites are approved through a cooperative planning process by the departments of natural resources

and ecology, the United States corps of engineers, and the United States environmental protection agency in cooperation with the Puget Sound ~~((water quality authority))~~ recovery partnership. These disposal sites are essential to the commerce and well being of the citizens of the state of Washington. Management and environmental monitoring of these sites are necessary to protect environmental quality and to assure appropriate use of state-owned aquatic lands. The creation of an aquatic land dredged material disposal site account is a reasonable means to enable and facilitate proper management and environmental monitoring of these disposal sites.

Sec. 23. RCW 79A.60.510 and 1999 c 249 s 1506 are each amended to read as follows:

The legislature finds that the waters of Washington state provide a unique and valuable recreational resource to large and growing numbers of boaters. Proper stewardship of, and respect for, these waters requires that, while enjoying them for their scenic and recreational benefits, boaters must exercise care to assure that such activities do not contribute to the despoliation of these waters, and that watercraft be operated in a safe and responsible manner. The legislature has specifically addressed the topic of access to clean and safe waterways by requiring the 1987 boating safety study and by establishing the Puget Sound ~~((action team))~~ recovery partnership.

The legislature finds that there is a need to educate Washington's boating community about safe and responsible actions on our waters and to increase the level and visibility of the enforcement of boating laws. To address the incidence of fatalities and injuries due to recreational boating on our state's waters, local and state efforts directed towards safe boating must be stimulated. To provide for safe waterways and public enjoyment, portions of the watercraft excise tax and boat registration fees should be made available for boating safety and other boating recreation purposes.

In recognition of the need for clean waterways, and in keeping with the Puget Sound action team's water quality work plan, the legislature finds that adequate opportunities for responsible disposal of boat sewage must be made available. There is hereby established a five-year initiative to install sewage pumpout or sewage dump stations at appropriate marinas.

To assure the use of these sewage facilities, a boater environmental education program must accompany the five-year initiative and continue to educate boaters about boat wastes and aquatic resources.

The legislature also finds that, in light of the increasing numbers of boaters utilizing state waterways, a program to acquire and develop sufficient waterway access facilities for boaters must be undertaken.

To support boating safety, environmental protection and education, and public access to our waterways, the legislature declares that a portion of the income from boating-related activities, as specified in RCW 82.49.030 and 88.02.040, should support these efforts.

Sec. 24. RCW 79A.60.520 and 1999 c 249 s 1507 are each amended to read as follows:

The commission, in consultation with the departments of ecology, fish and wildlife, natural resources, social and health services, and the Puget Sound ~~((action team))~~ recovery partnership shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of chapter 393, Laws of 1989 only.

Sec. 25. RCW 90.48.260 and 2003 c 325 s 7 are each amended to read as follows:

The department of ecology is hereby designated as the State Water Pollution Control Agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound ~~((water quality authority))~~ recovery partnership. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

(1) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (a) Effluent treatment and limitation requirements together with timing requirements related thereto; (b) applicable receiving water quality standards requirements; (c) requirements of standards of performance for new sources; (d) pretreatment requirements; (e) termination and modification of permits for cause; (f) requirements for public notices and opportunities for public hearings; (g) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; (h) requirements for inspection, monitoring, entry, and reporting; (i) enforcement of the program through penalties, emergency powers, and criminal sanctions; (j) a continuing planning process; and (k) user charges.

(2) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

(3) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

NEW SECTION. Sec. 26. It is the intent of the legislature for at least one of the two members of the house of representatives assigned to serve on the Puget Sound council under RCW 90.71.030 for the years 2005 through 2007 to be selected from the membership of the house of representatives' select committee on Hood Canal."

Correct the title.

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

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

Passed to Committee on Appropriations.

March 31, 2005

SB 5898 Prime Sponsor, Senator Regala: Ordering a public information campaign on postpartum depression. Reported by Committee on Health Care

MAJORITY recommendation: Do pass as amended.

On page 2, line 7, after "to the" strike "children's trust fund" and insert "Washington council for the prevention of child abuse and neglect"

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

Passed to Committee on Appropriations.

April 1, 2005

SSB 5899 Prime Sponsor, Senate Committee on Human Services & Corrections: Changing provisions relating to background checks. 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 43.43.830 and 2003 c 105 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through ~~((43.43.840))~~ 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the

course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" (~~means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation~~) is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, or exploitation or financial exploitation of a child or vulnerable adult under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative orders that become final due to the failure of the alleged perpetrator to timely exercise a right afforded to him or her to administratively challenge findings made by the department of social and health services or the department of health under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030~~((3))~~ and 10.97.050 relating to a crime ~~((against children or other persons))~~ committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first

degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) ~~("Disciplinary board final decision" means any final decision issued by a disciplining authority under chapter 18.130 RCW or the secretary of the department of health for the following businesses or professions:~~

- ~~— (a) Chiropractic;~~
- ~~— (b) Dentistry;~~
- ~~— (c) Dental hygiene;~~
- ~~— (d) Massage;~~
- ~~— (e) Midwifery;~~
- ~~— (f) Naturopathy;~~
- ~~— (g) Osteopathic medicine and surgery;~~
- ~~— (h) Physical therapy;~~
- ~~— (i) Physicians;~~
- ~~— (j) Practical nursing;~~
- ~~— (k) Registered nursing; and~~
- ~~— (l) Psychology;~~

~~"Disciplinary board final decision," for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.~~

~~(9)) "Unsupervised" means not in the presence of:~~

~~(a) Another employee or volunteer from the same business or organization as the applicant; or~~

~~(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.~~

~~((10)) (9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.~~

~~((11)) (10) "Financial exploitation" means ~~((the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage))~~ "financial exploitation" as defined in RCW 74.34.020.~~

~~((12)) (11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.~~

Sec. 2. RCW 43.43.832 and 2000 c 87 s 1 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol (~~(criminal)~~ identification (~~(system)~~) and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions (~~(of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision))~~) as defined in chapter 10.97 RCW.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must ((consider)) establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving

unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall

notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.

Sec. 3. RCW 43.43.834 and 1999 c 21 s 2 are each amended to read as follows:

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant (~~has been~~):

(a) Has been convicted of ((any)) a crime ((against children or other persons));

(b) ((Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult)) Has had findings made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or

(c) ((Convicted of crimes related to drugs as defined in RCW 43.43.830;

~~—(d) Found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;~~

~~—(e) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;~~

~~—(f) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or~~

~~—(g) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.~~

~~The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult)) Has both a conviction under (a) of this subsection and findings made against him or her under (b) of this subsection.~~

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited, except as provided in RCW 28A.320.155. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence.

Sec. 4. RCW 43.43.836 and 1987 c 486 s 4 are each amended to read as follows:

An individual may contact the state patrol to ascertain whether ~~((that same)) an individual has a ((civil adjudication, disciplinary board final decision, or)) conviction record.~~ The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838.

Sec. 5. RCW 43.43.838 and 1995 c 29 s 1 are each amended to read as follows:

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record ~~((disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record))~~ pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

(a) The subject of the inquiry;

(b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;

(c) The department of social and health services;

(d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or

(e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

~~((After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the business or organization by the state patrol and shall be issued within fourteen working days of the request. The business or organization shall provide a copy of the identification declaring the showing of no evidence to the applicant. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.))~~

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records ~~((PROVIDED, That))~~. No fee shall be charged to a nonprofit organization for the records check ((PROVIDED FURTHER, That)). In the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW.

Sec. 6. RCW 43.43.840 and 1997 c 386 s 40 are each amended to read as follows:

~~((1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under RCW 13.34.040, domestic relations action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.~~

~~— (2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.~~

~~— (3)) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment.~~

Sec. 7. RCW 43.43.845 and 1990 c 33 s 577 are each amended to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, ~~((the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW.))~~ the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person ~~((who has a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district))~~ has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall ~~((immediately))~~ transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to identify whether

the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

NEW SECTION. Sec. 8. RCW 43.43.835 (Background checks—Drug-related conviction information) and 1998 c 10 s 2 are each repealed."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5902 Prime Sponsor, Senate Committee on International Trade & Economic Development: Establishing a small business innovation research program proposal review process. Reported by Committee on Economic Development, Agriculture & Trade

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

Passed to Committee on Appropriations.

March 31, 2005

SSB 5903 Prime Sponsor, Senate Committee on Human Services & Corrections: Requiring the director of the office of public defense to oversee and monitor legal representation of parents in dependency and termination proceedings. 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; Kirby; Springer; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Serben

Passed to Committee on Appropriations.

March 31, 2005

SSB 5914 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Concerning the conditioning of grants and loans by the salmon recovery funding board. 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 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species; and

(iv) Will preserve high quality salmonid habitat.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding; and

(iii) Will be implemented by a sponsor with a successful record of project implementation.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) For fiscal year 2000, the board may authorize the interagency review team to evaluate, rank, and make funding decisions for categories of projects or activities or from funding sources provided for categories of projects or activities. In delegating such authority the board shall consider the review team's staff resources, procedures, and technical capacity to meet the purposes and objectives of this chapter. The board shall maintain general oversight of the team's exercise of such authority.

(5) The board shall seek the guidance of the technical review team to ensure that scientific principles and information are incorporated into the allocation standards and into proposed projects and activities. If the technical review team determines that a habitat project list complies with the critical pathways methodology under RCW 77.85.060, it shall provide substantial weight to the list's project priorities when making determinations among applications for funding of projects within the area covered by the list.

(6) The board shall establish criteria for determining when block grants may be made to a lead entity or other recognized regional recovery entity consistent with one or more habitat project lists developed for that region. Where a lead entity has been established pursuant to RCW 77.85.050, the board may provide grants to the lead entity to assist in carrying out lead entity functions under this chapter, subject to available funding. The board shall determine an equitable minimum amount of funds for each region, and shall distribute the remainder of funds on a competitive basis.

(7) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(8) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(9) ~~(The board may condition a grant or loan to include the requirement that property may only be transferred to a federal agency if the agency that will acquire the property agrees to comply with all terms of the grant or loan to which the project sponsor was obligated.)~~ Property acquired or improved by a project sponsor may be conveyed to a federal agency ~~(, but only)~~ if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the project area approves the transfer and provides notification to the board."

Signed by Representatives B. Sullivan, Chairman; Uptegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; DeBolt; Dickerson; Eickmeyer; Hunt; Orcutt and Williams.

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5922 Prime Sponsor, Senate Committee on Human Services & Corrections: Changing procedures for investigations of child abuse or neglect. 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 26.44.100 and 1998 c 314 s 8 are each amended to read as follows:

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall, at the initial point of contact, notify the alleged perpetrator of ~~((the allegations of))~~ child abuse ~~((and))~~ or neglect ~~((at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process))~~ of the complaints or allegations made against the individual, in a manner consistent with the laws protecting the rights of the persons making the complaints or allegations, unless such notice will jeopardize the safety or protection of the child or the course of the investigation.

Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings. The notice shall also advise the alleged perpetrator that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) Founded reports of child abuse and neglect may be considered in determining whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) An alleged perpetrator named in a founded report of child abuse or neglect has the right to seek review of the finding as provided in this chapter.

(3) The notification required by this section shall be made by certified mail, return receipt requested, to the person's last known address.

(4) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

(5) The department shall provide training to all persons who conduct investigations under this section that shall include, but is not limited to, training regarding the legal duties of the department from the initial time of contact during investigation through treatment in order to protect children and families.

NEW SECTION. **Sec. 2.** The legislature finds that whenever possible, children should remain in the home of their parents. It is only when the safety of the child is a concern that the child should be removed from the home.

The legislature finds that the safety of a child is put in jeopardy when a child is subject to chronic neglect. The legislature recognizes

that chronic neglect may be more dangerous to a child than physical or sexual abuse, and must be treated as such by those charged with the protection of children in this state.

It is the intent of the legislature that the department of social and health services be permitted to intervene in cases of chronic neglect where the well-being of the child is at risk. One incident of neglect may not rise to the level requiring state intervention; however, a pattern of neglect has been shown to cause damage to the health and well-being of the child subject to the neglect.

It is the intent of the legislature that when chronic neglect has been found to exist in a family, the legal system reinforce the need for the parent to engage in services that will decrease the likelihood of future neglect. However, if the parents fail to comply with the necessary services, the state must intervene to protect the children who are at risk.

Sec. 3. RCW 13.34.138 and 2003 c 227 s 5 are each amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(3) or 13.34.134. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. This review shall consider both the agency's and parent's efforts that demonstrate consistent measurable progress over time in meeting the disposition plan requirements. The requirements for the initial review hearing, including the in-court requirement, shall be accomplished within existing resources. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(2)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The cooperation by the parents with the agency case plan;

(ii) The compliance of the parents with court orders related to the care and supervision of the child; and

(iii) The continued participation of the parents in remedial services.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in services or treatment for themselves or the child; or

(iii) The failure of the parents to successfully and substantially complete services or treatment for themselves or the child.

(3) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

~~((3))~~ (4) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 4. RCW 26.44.015 and 1999 c 176 s 28 are each amended to read as follows:

(1) This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not injurious to the child's health, welfare, ~~((and))~~ or safety.

(2) Nothing in this chapter may be used to prohibit the reasonable use of corporal punishment as a means of discipline.

(3) No parent or guardian may be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

Sec. 5. 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))~~ or nonaccidental injury of a child by any person under circumstances which ~~((indicate that))~~ cause harm to the child's health, welfare, ~~((and))~~ or safety ~~((is harmed)),~~ 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 under circumstances which cause harm to or present a substantial threat of harm to the child's health, welfare, or safety. 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))~~ 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))~~ cause harm to or present a substantial threat of harm to ~~((the))~~ a child's ~~((health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment))~~ physical, mental, or cognitive condition or development. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against

someone other than the child do not constitute negligent treatment or maltreatment in and of themselves.

(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.

NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW 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 or is at risk of negligent treatment or maltreatment, the department may offer services to the child's parents, guardians, or legal custodians (a) to ameliorate the conditions that endangered the welfare of the child or that place the child at risk of future abuse or neglect, or (b) to address or treat the effects of mistreatment or neglect upon the child. 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.

(2) 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 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.

(3) 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 or safeguard the child from future abuse or neglect.

(4) 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. 7. RCW 74.13.031 and 2004 c 183 s 3 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate ~~((complaints of any recent act or failure to act))~~ reports of child abuse or neglect as defined in chapter 26.44 RCW on the part of a parent, guardian, or legal custodian of the child, member of the household of such persons, agency as defined in chapter 74.15 RCW providing care to the child, or other caretaker ~~((that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm))~~ of the child who is serving in place of the parent, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such ~~((parents, legal custodians, or))~~ persons ~~((serving in loco parentis)), and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, guardians, legal custodians, or persons serving in~~ ~~((loco parentis))~~ place of a parent. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are

accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals eighteen through twenty years of age, who are or have been in foster care.

NEW SECTION. Sec. 8. The legislature recognizes that the fiscal and workload impact of this act may not be fully determined until after it is implemented and that such impact may further be affected by the funding or availability of community-based prevention and remedial services. For that reason, the department of social and health services shall report on the implementation of this act to the appropriate legislative committees and the governor by December 1, 2006. The report shall include information regarding any change over previous years in the number and type of child abuse and neglect referrals received and investigations conducted, any change in in-home and out-of-home dependency placements and/or filings, any increased service costs, barriers to implementation, and an assessment of the fiscal and workload impact on the department. Such information shall be reviewed by the legislature for possible amendment of this act or additional allocation of resources to the department for implementation purposes.

NEW SECTION. Sec. 9. This act takes effect January 1, 2006.

NEW SECTION. Sec. 11. This act may be known and cited as the Justice and Raiden Act."

Correct the title.

Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Darneille; Dickerson and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dunn and Haler

Passed to Committee on Appropriations.

March 31, 2005

SB 5926 Prime Sponsor, Senator McAuliffe: Modifying provisions in the advanced college tuition payment program. Reported by Committee on Higher 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; Jarrett; Ormsby; Priest; Roberts and Sommers.

Passed to Committee on Rules for second reading.

March 30, 2005

SSB 5951 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Affording certain information held by the horse racing commission the same protection from public inspection as other regulated entities. Reported by Committee on State Government Operations & Accountability

MAJORITY recommendation: Do pass as amended.

On page 7, line 23, after "for a" strike all material through "license" on line 25 and insert "horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license"

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.

April 1, 2005

ESB 5962 Prime Sponsor, Senator Haugen: Protecting customary agricultural practices against nuisance actions. (REVISED FOR ENGROSSED: Concerning customary agricultural practices.) 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. A new section is added to chapter 7.48 RCW to read as follows:

(1) A farmer who prevails in any action, claim, or counterclaim alleging that agricultural activity on a farm constitutes a nuisance may recover the full costs and expenses determined by a court to have been reasonably incurred by the farmer as a result of the action, claim, or counterclaim.

(2) A farmer who prevails in any action, claim, or counterclaim (a) based on an allegation that agricultural activity on a farm is in violation of specified laws, rules, or ordinances, (b) where such activity is not found to be in violation of the specified laws, rules, or ordinances, and (c) actual damages are realized by the farm as a result of the action, claim, or counterclaim, may recover the full costs and expenses determined by a court to have been reasonably incurred by the farmer as a result of the action, claim, or counterclaim.

(3) The costs and expenses that may be recovered according to subsection (1) or (2) of this section include actual damages and reasonable attorneys' fees and costs. For the purposes of this subsection, "actual damages" include lost revenue and the replacement value of crops or livestock damaged or unable to be harvested or sold as a result of the action, claim, or counterclaim.

(4) In addition to any sums recovered according to subsection (1) or (2) of this section, a farmer may recover exemplary damages if a court finds that the action, claim, or counterclaim was initiated maliciously and without probable cause.

NEW SECTION. Sec. 2. A new section is added to chapter 7.48 RCW to read as follows:

A state or local agency required to investigate a complaint alleging agricultural activity on a farm is in violation of specified laws, rules, or ordinances and where such activity is not found to be in violation of such specified laws, rules, or ordinances may recover its full investigative costs and expenses if a court determines that the complaint was initiated maliciously and without probable cause.

NEW SECTION. Sec. 3. A new section is added to chapter 64.06 RCW to read as follows:

A seller of real property located within one mile of the property boundary of a farm or farm operation shall make available to the buyer the following statement: "This notice is to inform prospective residents that the real property they are about to acquire lies within one mile of the property boundary of a farm. The farm may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Washington right to farm act."

Sec. 4. RCW 70.94.640 and 1981 c 297 s 30 are each amended to read as follows:

(1) Odors or fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether agricultural activity is consistent with good agricultural practices, the department of ecology or board of any authority shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

(2) Any notice of violation issued under this chapter pertaining to odors or fugitive dust caused by agricultural activity shall include a statement as to why the activity is inconsistent with good agricultural practices, or a statement that the odors or fugitive dust have substantial adverse effect on public health.

(3) In any appeal to the pollution control hearings board or any judicial appeal, the agency issuing a final order pertaining to odors or fugitive dust caused by agricultural activity shall prove the activity is inconsistent with good agricultural practices or that the odors or fugitive dust have a substantial adverse impact on public health.

(4) If a person engaged in agricultural activity on a contiguous piece of agricultural land sells or has sold a portion of that land for residential purposes, the exemption of this section shall not apply.

(5) As used in this section:

(a) "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, shellfish, grain, mint, hay, and dairy products.

(b) "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

(c) "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock ~~((or)),~~ agricultural commodities, or cultured aquatic products.

(d) "Fugitive dust" means a particulate emission made airborne by human activity, forces of wind, or both, and which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(6) The exemption for fugitive dust provided in subsection (1) of this section does not apply to facilities subject to RCW 70.94.151 as specified in WAC 173-400-100 as of the effective date of this act, 70.94.152, or 70.94.161."

Correct the title.

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

Passed to Committee on Rules for second reading.

March 31, 2005

ESB 5966 Prime Sponsor, Senator McCaslin: Prohibiting vehicle immobilization. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Appleton; Buck; Campbell; Curtis; Dickerson; Ericksen; Flannigan; Hankins; 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.

March 31, 2005

SB 5979 Prime Sponsor, Senator Benson: Prohibiting interference with search and rescue dogs. 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. A new section is added to chapter 9A.91 RCW to read as follows:

(1)(a)(i) Any person who has received notice that his or her behavior is interfering with the use of an on-duty search and rescue dog who continues with reckless disregard to interfere with the use of an on-duty search and rescue dog by obstructing, intimidating, or otherwise jeopardizing the safety of the search and rescue dog user or his or her search and rescue dog is guilty of a misdemeanor punishable according to chapter 9A.20 RCW, except when (a)(ii) of this subsection applies.

(ii) A second or subsequent violation of (a)(i) of this subsection is a gross misdemeanor punishable according to chapter 9A.20 RCW.

(b)(i) Any person who, with reckless disregard, allows his or her dog to interfere with the use of an on-duty search and rescue dog by obstructing, intimidating, or otherwise jeopardizing the safety of the search and rescue dog user or his or her search and rescue dog is guilty of a misdemeanor punishable according to chapter 9A.20 RCW, except when (b)(ii) of this subsection applies.

(ii) A second or subsequent violation of (b)(i) of this subsection is a gross misdemeanor punishable according to chapter 9A.20 RCW.

(2)(a) Any person who, with reckless disregard, injures, disables, or causes the death of an on-duty search and rescue dog is guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW.

(b) Any person who, with reckless disregard, allows his or her dog to injure, disable, or cause the death of an on-duty search and rescue dog is guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW.

(3) Any person who intentionally injures, disables, or causes the death of an on-duty search and rescue dog is guilty of a class C felony.

(4) Any person who wrongfully obtains or exerts unauthorized control over an on-duty search and rescue dog with the intent to deprive the dog user of his or her search and rescue dog is guilty of theft in the first degree under RCW 9A.56.030.

(5)(a) In any case in which the defendant is convicted of a violation of this section, he or she shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the search and rescue dog user and the dog that arise out of, or are related to, the criminal offense.

(b) Restitution for a conviction under this section shall include, but is not limited to:

(i) The value of the replacement of an incapacitated or deceased dog, the training of a replacement search and rescue dog, or retraining of the affected dog and all related veterinary and care expenses; and

(ii) Medical expenses of the search and rescue dog user, training of the dog user, and compensation for any wages or earned income lost by the search and rescue dog user as a result of a violation of subsection (1), (2), (3), or (4) of this section.

(6) Nothing in this section affects any civil remedies available for violation of this section.

(7) For purposes of this section, "search and rescue dog" means a dog that is trained for the purpose of search and rescue of persons lost or missing.

Sec. 2. RCW 9A.56.030 and 1995 c 129 s 11 are each amended to read as follows:

(1) A person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) one thousand five hundred dollars in value other than a firearm as defined in RCW 9.41.010; ~~((or))~~

(b) Property of any value other than a firearm as defined in RCW 9.41.010 taken from the person of another; or

(c) A search and rescue dog, as defined in section 1 of this act, while the search and rescue dog is on duty.

(2) Theft in the first degree is a class B felony."

Correct the title.

Signed by Representatives O'Brien, Chairman; Darneille, Vice Chairman; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi; Kirby and Strow.

Passed to Committee on Rules for second reading.

March 30, 2005

ESSB 5983 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Regarding professional certification of teachers. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes the importance of ongoing professional development and growth for teachers with the goal of improving student achievement. It is the intent of the legislature to ensure that professional certification is administered in such a way as to ensure that the professional development and growth of individual teachers is directly aligned to their current and future teaching responsibilities as professional educators.

Sec. 2. RCW 28A.410.210 and 2000 c 39 s 103 are each amended to read as follows:

The Washington professional educator standards board shall:

(1) Serve as an advisory body to the superintendent of public instruction and as the sole advisory body to the state board of education on issues related to educator recruitment, hiring, preparation, certification including high quality alternative routes to certification, mentoring and support, professional growth, retention, governance, prospective teacher pedagogy assessment, prospective principal assessment, educator evaluation including but not limited to peer evaluation, and revocation and suspension of licensure;

(2) Adopt rules to provide for the approval and disapproval of programs leading to the professional certification of teachers. The rules shall be written to allow the maximum program choice for applicants, promote portability among programs, and promote maximum efficiency for applicants in attaining professional certification. All current and future programs must comply with these rules and must receive initial approval based on these rules. The rules shall:

(a) Not require professional certification for any certificated teacher before the 2008-09 school year, not require professional certification before the fifth year following the receipt of a continuing employment contract for any individual teacher, not require any teacher with national board certification to earn professional certification, and allow any teacher currently enrolled in or participating in a program leading to professional certification to continue the program under administrative rules in place when the teacher began the program;

(b) Provide criteria for the approval and disapproval of accredited institutions of higher education within the state, beginning no later than August 31, 2006, and for the approval and disapproval of educational service districts, beginning no later than August 31, 2007, to offer programs leading to professional certification. The rules shall be written to encourage institutions of higher education and educational service districts to partner with local school districts or consortia of school districts, as appropriate, to provide instruction for teachers seeking professional certification;

(c) Encourage institutions of higher education to offer professional certificate coursework as continuing education credit hours. This shall not prevent an institution of higher education from providing the option of including the professional certification requirements as part of a master's degree program;

(d) Provide criteria for a liaison relationship between approved programs and school districts in which applicants are employed;

(e) Identify a professional certification process for out-of-state certificated teachers not yet certified in Washington who have graduated from regionally accredited institutions of higher education and who hold valid out-of-state certificates. The rules shall award professional certification to out-of-state teachers who have five years or more of successful teaching experience if the teachers have had that experience within the preceding three years and can show evidence of professional development during their teaching careers. The rules may require these teachers, within one year of the time they begin to teach in the state's public schools, to take a course in or show evidence that they can teach to the state's essential academic learning requirements; and

(f) Identify an evaluation process of approved programs that includes a review of the program coursework and applicant coursework load requirements, linkages of programs to individual teacher professional growth plans, linkages to school district and school improvement plans, and, to the extent possible, linkages to school district professional enrichment and growth programs for teachers, where such programs are in place in school districts. The board shall provide a preliminary report on the evaluation process to the senate and house of representatives committees on education policy by November 1, 2005. The board shall identify:

(i) A process for awarding conditional approval of a program that shall include annual evaluations of the program until the program is awarded full approval;

(ii) A three-year evaluation cycle once a program receives full approval;

(iii) A method for investigating programs that have received numerous complaints from students enrolled in the program and from those recently completing the program;

(iv) A method for investigating programs at the reasonable discretion of the board; and

(v) A method for using program completer satisfaction responses in making the evaluation;

(3) Submit annual reports and recommendations, beginning December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction concerning duties and activities within the board's advisory capacity. The Washington professional educator standards board shall submit a separate report by December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction providing recommendations for at least two high quality alternative routes to teacher certification. In its deliberations, the board shall consider at least one route that permits persons with substantial subject matter expertise to achieve residency certification through an on-the-job training program provided by a school district; and

~~((3))~~ (4) Establish the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240.

Sec. 3. RCW 28A.305.130 and 2002 c 205 s 3 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to initial teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification, except those programs leading to professional certification.

(2) Conduct every five years a review of the program approval standards, except those programs leading to professional certification, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) of this section, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the

performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates, except professional certificates, as provided for in subsection (1) of this section and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.315 RCW (~~28A.315.010 through 28A.315.680 and 28A.315.900~~).

(11) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools."

Correct the title.

Signed by Representatives Quall, Chairman; Talcott, Ranking Minority Member; Anderson, Assistant Ranking

Minority Member; Curtis; Haigh; Hunter; McDermott; Santos; Shabro and Tom.

MINORITY recommendation: Do not pass. Signed by Representatives P. Sullivan, Vice Chairman.

Passed to Committee on Appropriations.

March 31, 2005

SSB 5992 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Modifying self-insurer assessments under the second injury fund. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.44.040 and 1982 c 63 s 14 are each amended to read as follows:

(1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 and 51.32.250(~~as now or hereafter amended. Said~~). The fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules (~~and regulations promulgated~~) adopted by the director.

(3)(a) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules (~~and regulations promulgated by the director to ensure that self-insurers shall pay to such fund~~) adopted by the director. Such rules shall provide for at least the following:

(i) Except as provided in (a)(ii) of this subsection, the amount assessed each self-insurer must be in the proportion that the payments made from ((such)) the fund on account of claims made against self-insurers bears to the total sum of payments from ((such)) the fund.

(ii) Beginning with assessments imposed on or after July 1, 2009, but before July 1, 2012, the department shall experience rate the amount assessed each self-insurer as long as the aggregate amount assessed is in the proportion that the payments made from the fund on account of claims made against self-insurers bears to the total sum of payments from the fund. The experience rating factor must provide equal weight to the ratio between expenditures made by the second injury fund for claims of the self-insurer to the total expenditures made by the second injury fund for claims of all self-insurers for the prior three fiscal years and the ratio of workers' compensation claim payments under this title made by the self-insurer to the total worker's compensation claim payments made by all self-insurers under this title for the prior three fiscal years. The weighted average of these two ratios must be divided by the latter ratio to arrive at the experience factor.

(b) For purposes of this subsection, "expenditures made by the second injury fund" mean the costs and charges described under RCW 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed

to the second injury fund as described under RCW 51.16.120(1). Under no circumstances does "expenditures made by the second injury fund" include any subsequent payments, assessments, or adjustments for pensions, where the applicable second injury fund entitlement was established outside of the three fiscal years.

NEW SECTION. Sec. 2. The department of labor and industries must report to the appropriate committees of the legislature by December 1, 2011, on the outcomes of workers potentially impacted by the experience rating program established in RCW 51.44.040(3)(a)(ii). The report must include a comparison of outcomes for workers of self-insurers whose industrial insurance claims are closed between July 1, 2003, and June 30, 2005, and have thirty or more days of temporary total disability, with such workers of self-insurers whose industrial insurance claims are closed between July 1, 2009, and June 30, 2011. The outcomes to be compared include, but are not limited to, whether the workers potentially impacted by the experience rating program have improved return-to-work outcomes, whether the number of impacted workers found to be employable increases, whether there is a change in long-term disability outcomes among the impacted workers, and whether the number of permanent total disability pensions among impacted workers is affected and, if so, the nature of the impact. The department must develop a study methodology, including an assessment tool that must be provided to the workers' compensation advisory committee for review and comment. The study methodology will include appropriate controls to account for economic fluctuations and wage inflation."

Correct the title.

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Crouse; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 5994 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Limiting the number and location of house-banked card rooms. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 1, line 14, after "as of" strike "February 1" and insert "March 10"

On page 2, after line 13, insert the following:

"(3) For purposes of this section, an ordinance, resolution, or other legislative act that:

(a) Prohibits all house-banked card games within the applicable jurisdiction on and after the effective date of the legislative act, or on and after any other date specified in the legislative act, shall be deemed to be an act adopted in compliance with subsection (1)(c) of this section.

(b) Allows any house-banked card games to continue to operate within the applicable jurisdiction for an indefinite period after the effective date of the legislative act, or after another date, if any, specified in the legislative act, shall be deemed to be an act not in compliance with subsection (1)(c) of this section, and is null and void."

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Hudgins and McCoy.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse

Passed to Committee on Rules for second reading.

March 31, 2005

ESSB 5997 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Regulating out-of-state banks, savings banks, and mutual savings banks branches. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

On page 11, after line 13, insert the following:

"NEW SECTION. Sec. 6. This act does not prohibit any merger of a domestic stock savings bank, organized under Title 32 RCW, with any out-of-state national bank having total assets of less than two hundred million dollars that is directly, or indirectly through a registered bank holding company, controlled, through ownership of the majority of voting stock or otherwise, by residents of the state of Washington, if an application for approval by the department of financial institutions of the proposed merger has been submitted on or prior to the effective date of this act."

Renumber the remaining section consecutively and correct the title.

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.

March 30, 2005

SSB 6001 Prime Sponsor, Senate Committee on Early Learning, K-12 & Higher Education: Regarding training for school administrators and security personnel in the use of force. 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; Santos; Shabro and Tom.

Passed to Committee on Appropriations.

April 1, 2005

ESB 6010 Prime Sponsor, Senator Fairley: Granting a right of return to employment to state employees who leave employment to serve in the Peace Corps. (REVISED FOR ENGROSSED: Granting a right of return to employment to state employees who leave employment to serve as Peace Corps or humanitarian organization volunteers or on faith-based missions.) 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 41.06 RCW to read as follows:

(1) An agency shall grant leave without pay to any exempt or nonexempt full-time permanent employee who requests such leave for purposes of service in the United States peace corps, participation in a program sponsored by a humanitarian organization, or participation in a faith-based mission.

(2) The employee's participation in insurance, vacation, retirement pay, or other benefits offered by the employer shall be governed by rules and practices, existing at the time the leave is granted, relating to leave without pay under subsection (1) of this section.

(3) Upon the employee's return, the employee shall be restored, without loss of seniority, to his or her previous position or an equivalent one.

(4) The employee may not be dismissed from his or her position without cause within one year after restoration."

Correct the title.

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.

Passed to Committee on Rules for second reading.

March 31, 2005

SB 6012 Prime Sponsor, Senator Spanel: Making transportation services an authorized purpose for parking and business improvement areas. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Murray, Chairman; Wallace, Vice Chairman; Woods, Ranking Minority Member; Appleton; Campbell; Curtis; Dickerson; Flannigan; Hudgins; Jarrett; Kilmer; Lovick; Morris; Rodne; Sells; Simpson; B. Sullivan; Takko; Upthegrove and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Buck; Ericksen; Hankins; Nixon; Schindler and Shabro

Passed to Committee on Rules for second reading.

March 28, 2005

SSB 6014 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Concerning industrial insurance claims made due to disaster response. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 2, after line 16, insert the following:

"NEW SECTION. Sec. 3. The department of labor and industries may adopt rules to implement this act."

Renumber the remaining section consecutively.

Correct the title.

Signed by Representatives Conway, Chairman; Wood, Vice Chairman; Sump, Assistant Ranking Minority Member; Hudgins and McCoy.

Passed to Committee on Rules for second reading.

March 31, 2005

SSB 6022 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Changing provisions relating to surety bonds or insurance for public building or construction contracts. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Do pass as amended.

Beginning on page 2, line 36, strike all of sections 2 and 3 and insert the following:

"NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) 2003 c 323 s 2;

(2) 2003 c 323 s 3 (uncodified);

(3) 2003 c 323 s 4 (uncodified);

(4) RCW 53.08.145 (Insurance--Determination of risks, hazards, liabilities--Acquisition of appropriate insurance) and 2000 c 143 s 1; and

(5) 2000 c 143 s 3 (uncodified)."

Correct the title.

Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Tom, Assistant Ranking Minority Member; O'Brien; Santos; Simpson; Strow and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Newhouse and Serben

Passed to Committee on Rules for second reading.

April 1, 2005

SB 6033 Prime Sponsor, Senator Doumit: Creating a Washington coastal Dungeness crab pot buoy tag program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.70.430 and 2001 c 234 s 1 are each amended to read as follows:

(1) In order to administer a Puget Sound crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab--Puget Sound fishery license to reimburse the department for the production of Puget Sound crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program.

(2) In order to administer a Washington coastal Dungeness crab pot buoy tag program, the department may charge a fee to holders of a Dungeness crab--coastal or a Dungeness crab coastal class B fishery license to reimburse the department for the production of Washington coastal crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program.

(3) The department shall annually review the costs of crab pot buoy tag production under this section with the goal of minimizing the per tag production costs. Any savings in production costs shall be passed on to the fishers required to purchase crab pot buoy tags under this section in the form of a lower tag fee.

Sec. 2. RCW 77.70.440 and 2001 c 234 s 2 are each amended to read as follows:

The Puget Sound crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW 77.70.430(1) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Puget Sound crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures.

NEW SECTION. Sec. 3. A new section is added to chapter 77.70 RCW to read as follows:

The Washington coastal crab pot buoy tag account is created in the custody of the state treasurer. All revenues from fees from RCW

77.70.430(2) must be deposited into the account. Expenditures from this account may be used for the production of crab pot buoy tags and the administration of a Washington coastal crab pot buoy tag program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW but no appropriation is required for expenditures."

Correct the title.

Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Tom, Assistant Ranking Minority Member; O'Brien; Santos; Simpson; Strow and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Newhouse and Serben

Passed to Committee on Rules for second reading.

March 30, 2005

SSB 6037 Prime Sponsor, Senate Committee on Government Operations & Elections: Changing provisions relating to limited development of rural areas. 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; Takko and Woods.

Passed to Committee on Rules for second reading.

April 1, 2005

ESSB 6050 Prime Sponsor, Senate Committee on Ways & Means: Providing financial assistance to cities, towns, and counties. Reported by Committee on Capital Budget

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 43.08 RCW to read as follows:

(1) The city-county 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 for the purposes provided in this section.

(2) Funds deposited in the city-county assistance account shall be distributed equally to the cities and counties.

(3)(a) Funds distributed to counties shall, to the extent possible, increase the revenues received under RCW 82.14.030(1) by each county to the greater of two hundred fifty thousand dollars or:

(i) For a county with an unincorporated population of one hundred thousand or less, seventy percent of the statewide weighted

average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year; and

(ii) For a county with an unincorporated population of more than one hundred thousand, sixty-five percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(b) For each county with an unincorporated population of fifteen thousand or less, the county shall receive the greater of the amount in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(c) For each county with an unincorporated population of more than fifteen thousand and less than twenty-two thousand, the county shall receive in calendar year 2006 and 2007 the greater of the amount provided in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all counties as otherwise determined under this subsection shall be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds shall be divided ratably based upon unincorporated population among those counties receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(4)(a) For each city with a population of five thousand or less with a per capita assessed property value less than twice the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city shall receive the greater of the following three amounts:

(i) An amount necessary to increase the revenues collected under RCW 82.14.030(1) up to fifty-five percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(ii) The amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(b) For each city with a population of more than five thousand with a per capita assessed property value less than the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city shall receive the greater of the following three amounts:

(i) An amount necessary to increase the revenues collected under RCW 82.14.030(1) up to fifty percent of the statewide weighted average per capita level of sales and use tax revenues collected under RCW 82.14.030(1) for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year.

(ii) For calendar year 2006 and 2007, the amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(c) No city may receive an amount greater than one hundred thousand dollars a year under (a) or (b) of this subsection.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all cities as otherwise determined under this subsection shall be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds shall be divided ratably based upon population among those cities receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(f) This subsection only applies to cities incorporated prior to the effective date of this section.

(5) The two hundred fifty thousand dollar amount in subsection (3) of this section and the one hundred thousand dollar amount in subsection (4) of this section shall be increased each year beginning in calendar year 2006 by inflation as defined in RCW 84.55.005, as determined by the department of revenue.

(6) Distributions under subsections (3) and (4) of this section shall be made quarterly beginning on October 1, 2005, based on population as last determined by the office of financial management. The department of revenue shall certify the amounts to be distributed under this section to the state treasurer. The certification shall be made by October 1, 2005, for the October 1, 2005, distribution and the January 1, 2006, distribution, based on calendar year 2004 collections. The certification shall be made by March 1, 2006, for distributions beginning April 1, 2006, and by March 1st of every year thereafter. The March 1st certification shall be used for distributions occurring on April 1st, July 1st, and October 1st of the year of certification and on January 1st of the year following certification.

(7) All distributions to local governments from the city-county assistance account constitute increases in state distributions of revenue to political subdivisions for purposes of state reimbursement for the costs of new programs and increases in service levels under RCW 43.135.060, including any claims or litigation pending against the state on or after January 1, 2005.

NEW SECTION. Sec. 2. A new section is added to chapter 44.28 RCW to read as follows:

During calendar year 2008, the joint legislative audit and review committee shall review the distributions to cities and counties under section 1 of this act to determine the extent to which the distributions target the needs of cities and counties for which the repeal of the motor vehicle excise tax had the greatest fiscal impact. In conducting the study, the committee shall solicit input from the cities and counties. The department of revenue and the state treasurer shall provide the committee with any data within their purview that the committee considers necessary to conduct the review. The committee shall report to the legislature the results of its findings, and any recommendations for changes to the distribution formulas under section 1 of this act, by December 31, 2008.

NEW SECTION. Sec. 3. This act takes effect August 1, 2005."

Correct the title.

Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Cox; Eickmeyer; Ericks; Flannigan; Green; Hasegawa; Kretz; Lantz; Moeller; Morrell; Newhouse; O'Brien; Schual-Berke; Springer and Upthegrove.

MINORITY recommendation: Do not pass. Signed by Representatives DeBolt; Holmquist; McCune; Roach; Serben and Strow

Passed to Committee on Finance.

March 31, 2005

SSB 6064 Prime Sponsor, Senate Committee on Financial Institutions, Housing & Consumer Protection: Limiting the powers of homeowners' associations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

On page 1, line 8, after "election." strike all material through "signs." on line 10

Signed by Representatives Flannigan, Vice Chairman; Campbell; Kirby; Springer; Williams and Wood.

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

Passed to Committee on Rules for second reading.

April 1, 2005

ESSJM 8010 Prime Sponsor, Senate Committee on Agriculture & Rural Economic Development: Petitioning the United States Department of Agriculture to delay plans to reopen the border to Canadian cattle and beef products. Reported by Committee on Economic Development, Agriculture & Trade

MAJORITY recommendation: Do pass as amended.

Beginning on page 2, line 29, after "rule;" strike all material through "beef." on page 3, line 8 and insert the following:

"NOW, THEREFORE, Your Memorialists respectfully pray that the United States Department of Agriculture: (1) Reaffirm to the Congress and the courts that the rule to lift the limited ban on importation of Canadian beef is based on sound scientific proof that consumer safety and animal health in the United States will be maintained; and (2) redouble its efforts to swiftly and successfully

conclude negotiations with our trading partners to reestablish critical export markets for United States beef based on the same sound science."

Signed by Representatives Linville, Chairman; Pettigrew, Vice Chairman; Kristiansen, Ranking Minority Member; Buri; Chase; Clibborn; Dunn; Grant; Haler; Holmquist; Kenney; Kilmer; Kretz; McCoy; Morrell; Newhouse; Quall; Strow and Wallace.

Passed to Committee on Rules for second reading.

March 31, 2005

SJM 8014 Prime Sponsor, Senator Thibaudeau: Requesting that the privatization of social security be rejected. Reported by Committee on Children & Family Services

MAJORITY recommendation: Do pass. Signed by Representatives Kagi, Chairman; Roberts, Vice Chairman; Darneille; Dickerson and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dunn and Haler

Passed to Committee on Rules for second reading.

March 31, 2005

SJR 8206 Prime Sponsor, Senator Hargrove: Revising limitations on use of inmate labor. 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; Kagi; Kirby and Strow.

Passed to Committee on Appropriations.

There being no objection, the bills, memorials and resolutions listed on the day's committee reports and supplement committee reports sheets under the fifth order of business were referred to the committees so designated.

SECOND READING

HOUSE BILL NO. 2255, By Representatives Conway, Simpson and Wood

Making adjustments to improve benefit equity in the unemployment insurance system.

The bill was read the second time.

Representative Conway moved the adoption of amendment (385):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the unemployment insurance system was created to set aside unemployment reserves to be used for the benefit of persons who are unemployed through no fault of their own and to maintain purchasing power and limit the social consequences of unemployment. The legislature further finds that the system is falling short of these goals by failing to recognize the importance of applying liberal construction for the purpose of reducing involuntary unemployment, and the suffering caused by it, to the minimum, and by failing to provide equitable benefits to unemployed workers. The legislature also recognizes the desirability of managing the system to take into account the goal of reducing costs to foster a competitive business climate. The legislature intends to adjust the balance between these goals by reinstating the requirement for liberal construction and making other adjustments in the system that will allow reasonable improvements in benefit equity, including reinstating a weekly benefit calculation based on the wages in the two quarters of the claimant's base year in which wages were the highest. The legislature finds that these adjustments are critical to the health and welfare of unemployed workers, and to the purchasing power essential to the economic health and welfare of communities and the state, and should be implemented as soon as feasible.

Sec. 2. RCW 50.01.010 and 2003 2nd sp.s. c 4 s 1 are each amended to read as follows:

Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the insurance principle of sharing the risks, and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing powers and limiting the serious social consequences of relief assistance. The state of Washington, therefore, exercising herein its police and sovereign power endeavors by this title to remedy any widespread unemployment situation which may occur and to set up safeguards to prevent its recurrence in the years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, and that this title shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum.

Sec. 3. RCW 50.20.120 and 2003 2nd sp.s. c 4 s 11 are each amended to read as follows:

(1)(a) Subject to the other provisions of this title, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount, as determined in subsection (2) of this

section, or one-third of the individual's base year wages under this title: PROVIDED, That as to any week which falls in an extended benefit period as defined in RCW 50.22.010(1), an individual's eligibility for maximum benefits in excess of twenty-six times his or her weekly benefit amount will be subject to the terms and conditions set forth in RCW 50.22.020.

(b) With respect to claims that have an effective date on or after the first Sunday of the calendar month immediately following the month in which the commissioner finds that the state unemployment rate is six and eight-tenths percent or less, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2)(a) For claims with an effective date before January 4, 2004, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(b) With respect to claims with an effective date on or after January 4, 2004, and before January 2, 2005, an individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the three quarters of the individual's base year in which such total wages were highest.

(c)(i) With respect to claims with an effective date on or after January 2, 2005, except as provided in (c)(ii) of this subsection, an individual's weekly benefit amount shall be an amount equal to one percent of the total wages paid in the individual's base year.

(ii) With respect to claims with an effective date on or after the first Sunday following the day on which the governor signs this act, and before July 1, 2007, an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a)(i) With respect to claims that have an effective date before January 4, 2004, the maximum amount payable weekly shall be seventy percent of the "average weekly wage" for the calendar year preceding such June 30th.

(ii) With respect to claims that have an effective date on or after January 4, 2004, the maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar.

Sec. 4. RCW 50.29.025 and 2003 2nd sp.s. c 4 s 14 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be determined under this subsection.

(a) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the September 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(b) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in (e) of this subsection shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
2.90 and above	AA
2.10 to 2.89	A
1.70 to 2.09	B
1.40 to 1.69	C
1.00 to 1.39	D
0.70 to 0.99	E
Less than 0.70	F

(c) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (i) Identification number; (ii) benefit ratio; (iii) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (iv) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (v) the percentage equivalent of the cumulative total of taxable payrolls.

(d) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in (e) of this subsection: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(e) Except as provided in RCW 50.29.026, the contribution rate for each employer in the array shall be the rate specified in the following tables for the rate class to which he or she has been assigned, as determined under (d) of this subsection, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls		Schedules of Contributions Rates for Effective Tax Schedule							
Rate		AA	A	B	C	D	E	F	
From	To Class								
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27
35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66

45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

(f) The contribution rate for each employer not qualified to be in the array shall be as follows:

(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year, except employers who have an approved agency-deferred payment contract by September 30 of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year; and

(ii) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent.

(2) Beginning with contributions assessed for rate year 2005, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30

0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60
0.015000	0.016250	14	1.75
0.016250	0.017500	15	1.90
0.017500	0.018750	16	2.05
0.018750	0.020000	17	2.20
0.020000	0.021250	18	2.35
0.021250	0.022500	19	2.50
0.022500	0.023750	20	2.65
0.023750	0.025000	21	2.80
0.025000	0.026250	22	2.95
0.026250	0.027500	23	3.10
0.027500	0.028750	24	3.25
0.028750	0.030000	25	3.40
0.030000	0.031250	26	3.55
0.031250	0.032500	27	3.70
0.032500	0.033750	28	3.85
0.033750	0.035000	29	4.00
0.035000	0.036250	30	4.15
0.036250	0.037500	31	4.30
0.037500	0.040000	32	4.45
0.040000	0.042500	33	4.60
0.042500	0.045000	34	4.75
0.045000	0.047500	35	4.90
0.047500	0.050000	36	5.05
0.050000	0.052500	37	5.20
0.052500	0.055000	38	5.30
0.055000	0.057500	39	5.35
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) ~~((and)), (C), and (D)~~ of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than two-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent.

(D) With respect to rate year 2007, the flat social cost factor shall be the lesser of:

(I) The flat social cost factor determined under (b)(i)(A) through (C) of this subsection; or

(II) The flat social cost factor that would be determined under (b)(i)(A) through (C) of this subsection if RCW 50.20.120(2)(c) had been in effect during the immediately preceding rate year.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection ~~(, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose standard industrial classification code is within major group "01," "02," "07," "091," "203," "209," or "5148," or the equivalent code in the North American industry classification system code, may not exceed six percent):~~

~~((A))~~ (I) Rate class 1 - 78 percent;

~~((B))~~ (II) Rate class 2 - 82 percent;

~~((C))~~ (III) Rate class 3 - 86 percent;

~~((D))~~ (IV) Rate class 4 - 90 percent;

~~((E))~~ (V) Rate class 5 - 94 percent;

~~((F))~~ (VI) Rate class 6 - 98 percent;

~~((G))~~ (VII) Rate class 7 - 102 percent;

~~((H))~~ (VIII) Rate class 8 - 106 percent;

~~((I))~~ (IX) Rate class 9 - 110 percent;

~~((J))~~ (X) Rate class 10 - 114 percent;

~~((K))~~ (XI) Rate class 11 - 118 percent; and

~~((L))~~ (XII) Rate classes 12 through 40 - 120 percent.

(B) The sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent, except that:

(I) For contributions assessed beginning July 1, 2005, through June 30, 2007, for employers whose North American industry classification system code is "111," "112," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero; and

(II) The sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent for employers whose North American industry classification system code is "1141," and, for periods not covered by (b)(ii)(B)(I) of this subsection, for employers whose North American industry classification system code is "111," "112," "115," "3114," "3117," or "42448."

(iii) For the purposes of this section:

(A) "Total social cost" means:

(I) Except as provided in (b)(iii)(A)(II) of this subsection, the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period.

(II) For rate year 2007, the amount calculated under (b)(iii)(A)(I) of this subsection reduced by the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters immediately preceding the applicable computation

date because, as applicable, specified employers are subject to the social cost contributions under (b)(ii)(B)(I) of this subsection, and/or because the social cost factor contributions are paid under (b)(i)(D)(II) of this subsection.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) The array calculation factor rate for each employer not qualified to be in the array shall be as follows:

(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned an array calculation factor rate two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) For all other employers not qualified to be in the array, the array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40.

(d) The graduated social cost factor rate for each employer not qualified to be in the array shall be as follows:

(i) For employers whose array calculation factor rate is determined under (c)(i) of this subsection, the social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) For employers whose array calculation factor rate is determined under (c)(ii) of this subsection, the social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the standard industrial classification code, or in the North American industry classification system code.

Sec. 5. RCW 50.16.030 and 1999 c 36 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) and (c) of this subsection, moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner, except that money credited to this state's account pursuant to section 903 of the social security act, as amended, shall be used exclusively as provided in RCW 50.16.030(5). The commissioner shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he or she deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys

in the benefit account and shall issue his or her warrants for the payment of benefits solely from such benefits account.

(b) During fiscal years 2006 and 2007, moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:

(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters ending on June 30, 2006, for the fiscal year 2006 calculation, and ending on June 30, 2007, for the fiscal year 2007 calculation, because the social cost factor contributions that employers are subject to under RCW 50.29.025(2)(b)(ii)(B)(I) are less than the social cost factor contributions that would have applied to these employers under RCW 50.29.025(2)(b)(ii)(B)(II); and

(ii) Second, after the requisitioning required under (b)(i) of this subsection in the respective fiscal year, from all other moneys credited to this state's account in the unemployment trust fund.

(c) After the requisitioning required under (b) of this subsection, if applicable, during calendar years 2006 and 2007, moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:

(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters immediately preceding the applicable computation date because the social cost factor contributions paid pursuant to RCW 50.29.025(2)(b)(i)(D)(II) are less than the social cost factor contributions that would have been paid if RCW 50.29.025(2)(b)(i)(D)(I) had been applicable; and

(ii) Second, after the requisitioning required under (c)(i) of this subsection in the respective calendar year, from all other moneys credited to this state's account in the unemployment trust fund.

(2) Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and RCW 43.01.050, as amended, shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the commissioner, or his or her duly authorized agent for that purpose.

(3) Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or in the discretion of the commissioner, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund.

(4) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this title pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July 1st and ending on the next June 30th to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the social security act, as amended, during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated pursuant to RCW 50.16.030 (4), (5) and (6) and charged against the amounts credited to the account of this state during any of such thirty-five twelve-month periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the thirty-fourth twelve-month period preceding such period: PROVIDED, That any amount credited to this state's account under section 903 of the social security act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment compensation fund balance for the purpose of experience rating credit determination.

(5) Money credited to the account of this state pursuant to section 903 of the social security act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses of administration and of public employment offices pursuant to RCW 50.16.030 (4), (5) and (6). However, moneys credited because of excess amounts in federal accounts in federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the legislature for any other purpose.

(6) Money requisitioned as provided in RCW 50.16.030(4), (5) and (6) for the payment of expenses of administration shall be deposited in the unemployment compensation fund, but until expended, shall remain a part of the unemployment compensation fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

NEW SECTION. Sec. 6. A new section is added to chapter 50.29 RCW to read as follows:

(1) By October 1, 2006, and October 1, 2007, the employment security department must report to the appropriate committees of the legislature on the impact, or projected impact, of sections 2 and 3, chapter ..., Laws of 2005 (sections 2 and 3 of this act) on the unemployment trust fund in the three consecutive fiscal years beginning with the year before the report date.

(2) This section expires January 1, 2008.

NEW SECTION. Sec. 7. To establish additional capacity within the employment security department, the department is authorized to add two full-time equivalent employees to develop

economic models for estimating the impacts of policy changes on the unemployment insurance system and the unemployment trust fund.

NEW SECTION. Sec. 8. (1)(a) The joint legislative task force on unemployment insurance benefit equity is established. The joint legislative task force shall consist of the following members:

(i) The chair and ranking minority member of the senate labor, commerce, research and development committee;

(ii) The chair and ranking minority member of the house commerce and labor committee;

(iii) Four members representing business, selected from nominations submitted by statewide business organizations representing a cross-section of industries and appointed jointly by the president of the senate and the speaker of the house of representatives; and

(iv) Four members representing labor, selected from nominations submitted by statewide labor organizations representing a cross-section of industries and appointed jointly by the president of the senate and the speaker of the house of representatives.

(b) In addition, the employment security department shall cooperate with the task force and maintain a liaison representative, who shall be a nonvoting member. The department shall cooperate with the task force and provide information as the task force may reasonably request.

(2) The task force shall review the unemployment insurance system, including, but not limited to, whether the benefit structure provides for equitable benefits, whether the structure fairly accounts for changes in the work force and industry work patterns, including seasonality, and for claimants' annual work patterns, whether the tax structure provides for an equitable distribution of taxes, and whether the trust fund is adequate in the long term.

(3)(a) The task force shall use legislative facilities, and staff support shall be provided by senate committee services and the house of representatives office of program research. The task force may hire additional staff with specific technical expertise if such expertise is necessary to carry out the mandates of this study.

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

(c) The expenses of the task force shall be paid jointly by the senate and the house of representatives.

(5) The task force shall report its findings and recommendations to the legislature by January 1, 2006.

(6) This section expires July 1, 2006.

NEW SECTION. Sec. 9. (1) Section 2 of this act expires June 30, 2007.

(2) It is the intent of the legislature that the expiration of sections or subsections of this act results in those sections of law being returned to the law in effect immediately before the effective date of this act.

NEW SECTION. Sec. 10. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the

receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

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

The amendment was adopted. The bill was ordered engrossed.

Representatives Conway, Wood, Simpson, Kenney, Sells, Campbell, McDermott, Ormsby, Roberts, Eickmeyer and Morrell spoke in favor of passage of the bill.

Representatives Condotta, DeBolt, Holmquist, Armstrong, Linville, Buck, Clements, Orcutt, Ahern, Ericksen, Serben, Woods, Jarrett, Nixon, Newhouse, Anderson, Dunn and Chandler spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2255.

MOTION

On motion of Representative Clements, Representative Skinner was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2255 and the bill passed the House by the following vote: Yeas - 56, Nays - 41, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, 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, Williams, Wood and Mr. Speaker - 56.

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

Excused: Representative Skinner - 1.

ENGROSSED HOUSE BILL NO. 2255, having received the necessary constitutional majority, was declared passed.

There being no objection, ENGROSSED SUBSTITUTE SENATE BILL NO. 5158 was moved from the second reading suspension calendar to the second reading calendar.

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

There being no objection, the House adjourned until 10:00 a.m., April 4, 2005, the 85th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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HOUSE OF REPRESENTATIVES (Representative Lovick presiding)

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