

SIXTIETH LEGISLATURE - REGULAR SESSION

EIGHTY FIFTH DAY

House Chamber, Olympia, Monday, April 2, 2007

The House was called to order at 9:55 a.m. by the Speaker (Representative Lovick presiding).

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

RESOLUTIONS

HOUSE RESOLUTION NO. 2007-4652, By Representatives McDonald, Orcutt, Armstrong, Hinkle, Dunshee, Jarrett, McIntire and Walsh

WHEREAS, Almost half of the signers of the Declaration of Independence were of Scottish descent, and nine governors of the original thirteen states were of Scottish ancestry; and

WHEREAS, Many early explorers and settlers of the Pacific Northwest were of Scottish or Scots-Irish ancestry and include: William Clark of Lewis and Clark fame; John McLoughlin, Chief Factor at Fort Vancouver, a fur trader, and empire builder; James Douglas, Chief Factor at Fort Vancouver; Archibald McKinley, Factor at Fort Walla Walla; Ulysses S. Grant, Civil War General and President who served at Fort Vancouver and for whom Grant County was named; J.C. Mac Grimmon, a Yakima Valley pioneer and orchardist; Alexander Colin Campbell, farmer, banker, miner, and former mayor of Puyallup; James Dinnie, fur trader and founder of the city of Cathlamet; James Urquart, founder of the city of Napavine and three-term member of the Territorial Legislature; and Abigail Scott Duniway, a suffragette who helped bring passage of the suffrage amendment to the state Constitution; and

WHEREAS, Many current and former legislators and elected officials are of Scottish or Scots-Irish ancestry and include: The late Senator George Sellar and former Senator Dan McDonald; former appointed and elected officials: William Wallace, territorial governor of Washington and Washington's representative to Congress; and Ralph Munro, former Secretary of State. Current elected officials of Scottish or Scots-Irish ancestry are Governor Christine O. Gregoire and Secretary of State Sam Reed; and current members of the Legislature of Scottish or Scots-Irish heritage are: Senators Karen Fraser, Jim Honeyford, Cheryl Pflug, and Val Stevens; and Representatives Glen Anderson, Mike Armstrong, Tom Campbell, Bill Hinkle, Joyce McDonald, Ed Orcutt, and Maureen Walsh; and

WHEREAS, The Scots-Irish are Americans of Scottish origin whose ancestors first colonized northern Ireland in the

late 1600s before emigrating to the English colonies of North America during the 1700s; and

WHEREAS, The Scots-Irish immigrants to America were devout Presbyterians who dedicated their lives to God and to the ideals of freedom and liberty; and

WHEREAS, The Scots-Irish immigrants to America valued a strong worth ethic and embraced a philosophy of common sense; and

WHEREAS, The Scottish Treaty of Arbroath on April 6, 1320, inspired the contents for America's Declaration of Independence; and

WHEREAS, National Tartan Day is observed each year on the sixth day of April; and

WHEREAS, The Scots-Irish played a pivotal role in winning the American Revolution; and

WHEREAS, The Scots-Irish were in the vanguard of frontiersman who carved a great civilization out of the American wilderness; and

WHEREAS, According to the United States Census Bureau's 2005 American Community Survey, there are more than 157,000 people of Scots-Irish ancestry in the State of Washington; and

WHEREAS, In April 2006, the Triad St. Andrews Society, the Triad Highland Games, and the Scottish-America Military Society proclaimed and declared April 2006 and every April thereafter as National Scots, Scots-Irish Heritage Month; and

WHEREAS, The Governor of the State of Washington has proclaimed April 2007 and every April thereafter as "Scots, Scots-Irish Heritage Month" in Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives officially recognize Scots, Scots-Irish Heritage Month and the unique and invaluable contributions of Scots-Irish to America and to the State of Washington.

HOUSE RESOLUTION NO. 4652 was adopted.

HOUSE RESOLUTION NO. 2007-4655, By Representatives Kagi and Chase

WHEREAS, The Lake Forest Park Community Wildlife Habitat Project is a volunteer program that teaches people how to certify their backyards as wildlife sanctuaries; and

WHEREAS, Certified habitats include landscaping for wildlife-friendly environments that offer food, water, cover, and places to raise offspring; and

WHEREAS, The program is helping to make Lake Forest Park a better place for songbirds, butterflies, and other wildlife species, and is encouraging volunteerism and community pride; and

WHEREAS, Engaging in the project is an easy way for individuals to improve the quality of the environment and enjoy nature and wildlife; and

WHEREAS, The city of Lake Forest Park has become the third city in Washington, and the 21st city in the nation, certified through the National Wildlife Federation's Community Wildlife Habitat Program; and

WHEREAS, Participation includes Lake Forest Park residents and businesses, as well as the state Department of Fish and Wildlife, the National Wildlife Federation, the Lake Forest Park Stewardship Foundation, and other nonprofit organizations; and

WHEREAS, The city of Lake Forest Park has provided support for this project; and

WHEREAS, Both of Lake Forest Park's elementary schools have also participated in this project; and

WHEREAS, Lake Forest Park's Mayor and city staff have provided outstanding support of its citizens working towards certification by the National Wildlife Federation;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize the outstanding efforts of the Lake Forest Park Community Wildlife Habitat Project and the city of Lake Forest Park for the support and organization of wildlife conservation; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the coordinator of the Lake Forest Park Project, Libby Fiene, and to Dave Hutchison, the Mayor of Lake Forest Park.

HOUSE RESOLUTION NO. 4655 was adopted.

HOUSE RESOLUTION NO. 2007-4656, By Representatives Kenney and O'Brien

WHEREAS, It is the policy of the legislature to recognize excellence in all fields of endeavor; and

WHEREAS, The O'Dea High School Fighting Irish basketball team, from Seattle, won the 2007 class AAA state basketball championship; and

WHEREAS, The O'Dea basketball coaches showed leadership and skill in focusing their team on their goal of winning the state AAA basketball championship with a 25-5 record; and

WHEREAS, The Fighting Irish basketball team wish to acknowledge the dedication of the seniors for loyalty and contributions to the O'Dea basketball program; and

WHEREAS, The captains of the team, Janelle McMillan and Chris Banchemo, contributed greatly to winning the state championship;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and honor the O'Dea

Fighting Irish basketball team and coach Phil Lumpkin and his assistant coaches for their accomplishments; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to coach Phil Lumpkin, the members of the O'Dea Fighting Irish basketball team, and the principal and faculty of O'Dea High School.

HOUSE RESOLUTION NO. 4656 was adopted.

MESSAGES FROM THE SENATE

March 31, 2007

Mr. Speaker:

The Senate has passed:

SUBSTITUTE HOUSE BILL NO. 1097,
SUBSTITUTE HOUSE BILL NO. 1138,
SUBSTITUTE HOUSE BILL NO. 1337,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 31, 2007

Mr. Speaker:

The President has signed:

SENATE BILL NO. 5011,
ENGROSSED SENATE BILL NO. 5166,
SUBSTITUTE SENATE BILL NO. 5191,
SENATE BILL NO. 5253,
SENATE BILL NO. 5620,
SUBSTITUTE SENATE BILL NO. 5625,
SENATE BILL NO. 5635,
SENATE BILL NO. 5759,
SUBSTITUTE SENATE BILL NO. 5898,
SUBSTITUTE SENATE BILL NO. 5952,
SENATE BILL NO. 5957,
SENATE JOINT MEMORIAL NO. 8008,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 31, 2007

Mr. Speaker:

The Senate has passed SUBSTITUTE SENATE BILL NO. 5882, and the same is herewith transmitted.

Thomas Hoemann, Secretary

INTRODUCTION & FIRST READING

HB 2399 by Representatives Chase, Hasegawa, Dunn, Green and Linville

AN ACT Relating to the payment of sales and use taxes by school districts and educational service districts; amending

RCW 82.12.0284; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

Referred to Committee on Finance.

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

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

There being no objection, HOUSE BILL NO. 1882 was returned to the Rules Committee.

There being no objection, the Committee on Appropriations was relieved of further consideration on SENATE BILL NO. 5923 and the bill was returned to the Committee on Rules.

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

REPORTS OF STANDING COMMITTEES

HB 2378 Prime Sponsor, Representative Flannigan: Expediting new vessel construction for Washington state ferries. Reported by Committee on Transportation

March 30, 2007

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

ESSB 5037 Prime Sponsor, Senate Committee on Transportation: Restricting the use of a wireless communications device while operating a moving motor vehicle. Reported by Committee on Transportation

March 30, 2007

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Dickerson; Hankins; Hudgins; Lovick; Rolfes; Sells; Simpson; Springer; B. Sullivan; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Armstrong; Curtis; Hailey; Rodne and Takko.

Passed to Committee on Rules for second reading.

E2SSB 5070 Prime Sponsor, Senate Committee on Ways & Means: Changing provisions affecting offenders who are leaving confinement. Reported by Committee on Appropriations

March 31, 2007

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Dickerson; Hankins; Hudgins; Lovick; Rolfes; Sells; Simpson; Springer; B. Sullivan; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Armstrong; Curtis; Hailey; Rodne and Takko.

Passed to Committee on Rules for second reading.

SSB 5078 Prime Sponsor, Senate Committee on Transportation: Implementing rules for drivers when approaching stationary emergency, roadside assistance, and police vehicles on highways having less than four lanes. Reported by Committee on Transportation

March 30, 2007

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

2SSB 5090 Prime Sponsor, Senate Committee on Ways & Means: Promoting innovation partnership zones. Reported by Committee on Appropriations

March 31, 2007

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community & Economic Development & Trade.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Washington is home to some of the world's most innovative companies, researchers, entrepreneurs, and

workers. Talent and creativity exist in all areas of Washington, but economic experience around the world shows that economic impact can be particularly large where talent and resources are densely concentrated. All over the world, small, specific areas are becoming focal points for economic change and leadership. These areas have name recognition, attract some of the best talent, and provide a strong sense of community among the people who work there. Washington is home to some of these areas now and needs to have more of them in the future. It is the intent of the legislature that Washington support the identification and promotion of innovation partnership zones to advance Washington's position in the world economy. Washington is a national leader in economic strategy based on clusters of industries, promoting the connections among firms, suppliers, customers, and public resources. Washington's innovation partnership zone strategy is an extension of that policy to promote research-based firms and industries in specific areas that become globally recognized as hubs of innovation and expertise.

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

(1) The director shall designate innovation partnership zones on the basis of the following criteria:

(a) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evidence of planning and local partnerships that will lead to dense concentrations of these institutions:

(i) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(ii) Dense proximity of globally competitive firms in a research-based industry or industries or of individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or other recognized evidence of international success; and

(iii) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone.

(b) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The innovation partnership zone administrator must be an economic development council, port, workforce development council, city, or county.

(2) On October 1st of each year, the director shall designate innovation partnership zones on the basis of applications that meet the legislative criteria, estimated economic impact of the zone, and evidence of forward planning for the zone.

(3) Innovation partnership zones are eligible for funds and other resources as provided by the legislature or at the discretion of the governor.

(4) If the innovation partnership zone meets the other requirements of the fund sources, then the zone is eligible for the following funds relating to:

(a) The local infrastructure financing tools program;

(b) The sales and use tax for public facilities in rural counties; and

(c) Job skills.

(5) An innovation partnership zone shall be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

(6) The department shall convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(7) An innovation partnership zone shall provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The Washington state economic development commission may review annually the individual innovation partnership zone's performance measures.

Sec. 3. RCW 39.102.070 and 2006 c 181 s 205 are each amended to read as follows:

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

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

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

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

(c) Funds may be used for innovation partnership zones, as provided under section 2 of this act;

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

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

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

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

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

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

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

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

(b) Increase employment within the revenue development area;

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

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

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

Sec. 4. RCW 82.14.370 and 2004 c 130 s 2 are each amended to read as follows:

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall not exceed 0.08 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, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section shall only be used to finance public facilities serving economic development purposes in rural counties or for innovation partnership zones, as provided under section 2 of this act. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county.

(b) In implementing this section, the county shall consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section shall report to the office of the state auditor, no later than October 1st of each year, a list of new projects from the prior fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the

tax imposed under subsection (1) of this section has been pledged shall not be deemed to be new projects under this subsection.

(c) For the purposes of this section, (i) "public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington; and (ii) "economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(4) No tax may be collected under this section before July 1, 1998. No tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

NEW SECTION. Sec. 5. A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2007. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by December 31, 2008, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones. The report shall include recommendations for modifications of this act and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of section 5 of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 7.** Section 3 of this act expires June 30, 2039."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 5092 Prime Sponsor, Senate Committee on Ways & Means: Revising provisions for contracts with associate development organizations for economic development services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community & Economic Development & Trade.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that economic development success requires coordinated state and local efforts. The legislature further finds that economic development happens at the local level. County-designated associate development organizations serve as a networking tool and resource hub for business retention, expansion, and relocation in Washington. Economic development success requires an adequately funded and coordinated state effort and an adequately funded and coordinated local effort. The legislature intends to bolster the partnership between state and local economic development efforts, provide increased funding for local economic development services, and increase local economic development service effectiveness, efficiency, and outcomes.

Sec. 2. RCW 43.330.080 and 1997 c 60 s 1 are each amended to read as follows:

((+)) The department shall contract with county-designated associate development organizations (~~(or other local organizations)~~) to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing

appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, ~~((private industry))~~ workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. ~~The ((department shall be responsible for determining the))~~ scope of services delivered under these contracts~~(-~~

~~— (2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.~~

~~— (3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.~~

~~— (4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to focus on developing key sectors that show potential for long-term sustainable growth. The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.~~

~~— (5)) shall include two broad areas of work:~~

~~(1) Direct assistance, including business planning, to companies who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance includes:~~

~~(a) Partnering with workforce development organizations, port districts, community colleges and higher education institutions, small business assistance programs, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services in the county;~~

~~(b) Providing information on state and local permitting processes, tax issues, and other essential information for operating and expanding a business in Washington;~~

~~(c) Marketing Washington as an excellent location to expand or relocate a business and positioning Washington as a globally competitive place to grow business;~~

~~(d) Working with businesses on site location and selection assistance; and~~

(e) Providing business retention and expansion services, including business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses; and

(2) Support for regional economic research and regional planning efforts to implement target industry strategies and other economic development strategies that support increased living standards throughout Washington. Activities include:

(a) Participation in regional planning efforts involving combined strategies around workforce development and economic development policies and programs. The contracting organization shall participate with the work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board, in providing for the coordination of job skills training within its region;

(b) Collecting and reporting local and regional economic information to inform local, regional, and statewide strategic decisions regarding business development policy and economic development aspects of growth management act planning. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(c) In conjunction with other governmental jurisdictions and institutions, participate in the development of a countywide economic development plan, consistent with the state comprehensive plan for economic development developed by the Washington state economic development commission.

NEW SECTION. Sec. 3. (1) Contracting associate development organizations shall provide the department with measures of their performance. Annual reports shall include information on the impact of the contracting organization on employment, wages, tax revenue, and capital investment. Specific measures shall be developed in the contracting process between the department and the contracting organization every two years. Performance measures should be consistent across regions to allow for statewide evaluation.

(2)(a) The department and contracting organizations shall agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance shall occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures shall develop remediation plans to address performance gaps. The remediation plans shall include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding shall be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations shall review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department shall report to the legislature and the Washington economic development commission by December 31st of each year on the performance results of the contracts with associate development organizations.

NEW SECTION. Sec. 4. Up to five associate development organizations per year contracting with the department under this act that apply for the Washington state quality award or its equivalent shall receive reimbursement for the award application fee, but may not be reimbursed more than once every three years.

NEW SECTION. Sec. 5. To the extent that funds are specifically appropriated therefor, contracts with associate development organizations for the provision of services under RCW 43.330.080(1) shall be awarded according to the following annual schedule:

(1) For associate development associations serving urban counties, which are counties other than rural counties as defined in RCW 43.160.020, a locally matched allocation of up to ninety cents per capita, totaling no more than three hundred thousand dollars per organization; and

(2) For associate development associations in rural counties, as defined in RCW 43.160.020, a per county base allocation of up to forty thousand dollars and a locally matched allocation of up to ninety cents per capita.

NEW SECTION. Sec. 6. Sections 3 through 5 of this act are each added to chapter 43.330 RCW.

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, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

April 2, 2007

E2SSB 5098 Prime Sponsor, Senate Committee on Ways & Means: Creating the Washington guaranteed scholarship program. (REVISED FOR ENGROSSED: Creating the Washington college bound scholarship program.) Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Higher Education. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McIntire;

Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5101 Prime Sponsor, Senate Committee on Higher Education: Expanding higher education tuition waivers to include certain certificated instructional staff. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Higher Education.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.558 and 2005 c 249 s 4 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section and teachers and other certificated instructional staff under subsection (3) of this section. The enrollment of these persons is pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics that would affect budgetary determinations; and

(c) Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees in classified service under chapter 41.06 RCW;

(b) Permanent employees governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges; and

(d) Faculty, counselors, librarians, and exempt professional and administrative employees at institutions of higher education as defined in RCW 28B.10.016.

(3) The waivers available to state employees under this section shall also be available to teachers and other certificated instructional staff employed at public common and vocational schools, holding or seeking a valid endorsement and assignment in a state-identified shortage area.

(4) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

((4)) (5) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees in the pool of persons eligible to participate in the program.

((5)) (6) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more."

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5108 Prime Sponsor, Senate Committee on Agriculture & Rural Economic Development: Creating the office of farmland preservation. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Higher Education. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

March 30, 2007

SB 5134 Prime Sponsor, Senator Haugen: Authorizing police officers to impound vehicles operated by drivers without specially endorsed licenses. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 5188 Prime Sponsor, Senate Committee on Transportation: Establishing a wildlife rehabilitation program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

April 2, 2007

ESB 5204 Prime Sponsor, Senator Rasmussen: Enforcing animal health laws. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5224 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Concerning the governor's salmon recovery office. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.85.010 and 2005 c 309 s 2 are each amended to read as follows:

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

(1) "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 under RCW 77.85.090 for the purpose of recovering salmon, which is recognized in statute or by the governor's salmon recovery office created in RCW 77.85.030.

(8) "Salmon" includes all species of the family Salmonidae which are capable of self-sustaining, natural production.

(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.

(10) "Salmon recovery region" means geographic areas of the state identified or formed under 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.

(11) "Salmon recovery strategy" means the strategy adopted under RCW 77.85.150 and includes the compilation of all subbasin and regional salmon recovery plans developed in response to a proposed or actual listing under the federal endangered species act with state hatchery, harvest, and hydropower plans compiled in accordance with RCW 77.85.150.

(12) "Tribe" or "tribes" means federally recognized Indian tribes.

(13) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

(14) "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. 2. RCW 77.85.020 and 2005 c 309 s 3 are each amended to read as follows:

(1) ~~(By December 1, 2006)~~ No later than January 31, 2009, and every odd-numbered year until and including 2015, the governor's salmon recovery office shall submit a biennial state of the salmon report to the legislature and the governor regarding the implementation of the state's salmon recovery strategy. The report ~~((may))~~ must include the following:

(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;~~

~~((b))~~ (b) A summary of habitat projects including but not limited to:

(i) A summary of accomplishments in removing barriers to salmon passage and an identification of existing barriers;

(ii) A summary of salmon restoration efforts undertaken in the past two years;

(iii) A summary of the role which private volunteer initiatives contribute in salmon habitat restoration efforts; and

(iv) A summary of efforts taken to protect salmon habitat;

~~((c))~~ ~~A summary of collaborative efforts undertaken with adjoining states or Canada;~~

~~((d))~~ (b) A summary of harvest and hatchery management activities affecting salmon recovery;

~~((e))~~ ~~A summary of information regarding impediments to successful salmon recovery efforts;~~

~~((f))~~ (c) A summary of the number and types of violations of existing laws pertaining to ~~((i) Water quality; and ((ii))~~ salmon. The summary ~~((shall))~~ may include information about the types of sanctions imposed for these violations~~((;~~

~~((g))~~ ~~Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998; and~~

~~((h))~~ ~~Recommendations to the legislature that would further the success of salmon recovery. The recommendations may include:~~

~~((i))~~ ~~The need to expand or improve nonregulatory programs and activities;~~

~~((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 may include the following:

(a) A description of the amount of in-kind financial contributions, including volunteer, private, state, federal, tribal, as available, and local government funds directly spent on salmon recovery in response to endangered species act listings; and

(b) Information on the estimated carrying capacity of new habitat created pursuant to chapter 246, Laws of 1998.

(3) The report shall summarize the monitoring data coordinated by the ~~((monitoring))~~ forum on monitoring salmon recovery and watershed health. The summary ~~((must))~~ may 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.

(4) The department, the department of ecology, the department of natural resources, the state conservation commission, and the forum on monitoring salmon recovery and watershed health shall provide to the governor's salmon recovery office information requested by the office necessary to prepare the state of the salmon report and other reports produced by the office.

Sec. 3. RCW 77.85.030 and 2005 c 309 s 4 are each amended to read as follows:

(1) The governor's 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, implementation, and revision of regional salmon recovery plans as an integral part of a statewide strategy developed consistent with the guiding principles and procedures under RCW 77.85.150.

(2) The governor's salmon recovery office is responsible for maintaining the statewide salmon recovery strategy to reflect applicable provisions of regional recovery plans, habitat protection and restoration plans, water quality plans, and other private, local, regional, state agency and federal plans, projects, and activities that contribute to salmon recovery.

(3) The governor's salmon recovery office shall also gather regional recovery plans from regional recovery organizations and submit the plans to the federal fish services for adoption as federal recovery plans. The governor's salmon recovery office shall also work with regional salmon recovery organizations on salmon recovery issues in order to ensure a coordinated and consistent statewide approach to salmon recovery. The governor's salmon recovery office shall work with federal agencies to accomplish implementation of federal commitments in the recovery plans.

(4) 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 salmon recovery plans; ~~(and)~~

(c) Provide periodic reports pursuant to RCW 77.85.020;

(d) Provide, as appropriate, technical and administrative support to the independent science panel or other science-related panels on issues pertaining to salmon recovery;

(e) In cooperation with the regional recovery organizations, prepare a timeline and implementation plan that, together with a schedule and recommended budget, identifies specific actions in regional recovery plans for state agency actions and assistance necessary to implement local and regional recovery plans; and

(f) As necessary, provide recommendations to the legislature that would further the success of salmon recovery, including recommendations for state agency actions in the succeeding biennium and state financial and technical assistance for projects and activities to be undertaken in local and regional salmon recovery plans. The recommendations may include:

(i) The need to expand or improve nonregulatory programs and activities; and

(ii) The need for state funding assistance to recovery activities and projects.

~~((2))~~ (5) This section expires June 30, ~~((2007))~~ 2015.

Sec. 4. RCW 77.85.040 and 2005 c 309 s 5 are each amended to read as follows:

(1) The governor ~~((shall))~~ may request the ~~((national))~~ Washington academy of sciences, ~~((the American fisheries society, or a comparable institution to screen candidates to serve as members on the))~~ when organized pursuant to chapter 305, Laws of 2005, to impanel an independent science panel on salmon recovery to respond

to requests for review pursuant to subsection (2) of this section. ~~((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))~~ panel 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))~~ (2) The independent science panel shall be governed by ~~((generally accepted))~~ guidelines and practices governing the activities of ~~((independent science boards such as))~~ the ~~((national))~~ Washington 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 may, during the time it is constituted, request ((review of regional salmon recovery plans by the science review panel)) that the panel review, investigate, and provide its findings on scientific questions relating to the state's salmon recovery efforts. The science panel does not have the authority to review individual projects or habitat project lists developed under RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel shall ~~((periodically))~~ submit its findings and recommendations under this subsection to the legislature and the governor.

Sec. 5. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the governor's salmon recovery office created in RCW 77.85.030, during the time it is constituted, as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

Sec. 6. RCW 77.85.150 and 2005 c 309 s 9 are each amended to read as follows:

(1) The governor shall, with the assistance of the governor's salmon recovery office, ((shall)) during the time it is constituted, maintain and revise, as appropriate, a statewide salmon recovery strategy.

(2) The governor and the salmon recovery office shall be guided by the following considerations in 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 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;))~~ If the strategy ~~((shall be))~~ is updated ~~((through))~~, an active and thorough public involvement process, including early and meaningful opportunity for public comment, must be utilized. In obtaining public comment, the governor's salmon recovery office shall ~~((hold public meetings))~~ work with regional salmon recovery organizations 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.

Sec. 7. RCW 43.41.270 and 2001 c 227 s 2 are each amended to read as follows:

(1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the governor's salmon recovery office, during the time it is constituted, shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section. ~~((The office of financial management shall report to the appropriate~~

~~legislative committees of the legislature on the agencies' implementation of this section, including any necessary changes in current law, and funding requirements by July 31, 2002. Natural resource agencies shall assist the office of financial management in preparing the report, including complying with time frames for submitting information established by the office of financial management.))~~

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the interagency committee for outdoor recreation, the salmon recovery funding board, and the public works board within the department of community, trade, and economic development.

(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW 70.105D.070; water pollution control facilities financing under chapter 70.146 RCW; aquatic lands enhancement grants under RCW ~~((79.24.580))~~ 79.105.150; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW; and the public ~~((work[s]))~~ works trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget.

NEW SECTION. Sec. 8. A new section is added to chapter 77.85 RCW to read as follows:

(1) The legislature finds that pursuant to chapter 298, Laws of 2001, and acting upon recommendations of the state's independent science panel, the monitoring oversight committee developed recommendations for a comprehensive statewide strategy for monitoring watershed health, with a focus upon salmon recovery, entitled *The Washington Comprehensive Monitoring Strategy and Action Plan for Watershed Health and Salmon Recovery*. The legislature further finds that funding to begin implementing the strategy and action plan was provided in the 2003-2005 biennial budget, and that executive order 04-03 was issued to coordinate state agency implementation activities. It is therefore the purpose of this section to adopt the strategy and action plan and to provide guidance to ensure that the coordination activities directed by executive order 04-03 are effectively carried out.

(2) The forum on monitoring salmon recovery and watershed health is created. The governor shall appoint a person with experience and expertise in natural resources and environmental quality monitoring to chair the forum. The chair shall serve four-year terms and may serve successive terms. The forum shall include representatives of the following state agencies and regional entities that have responsibilities related to monitoring of salmon recovery and watershed health:

- (a) Department of ecology;
- (b) Salmon recovery funding board;
- (c) Salmon recovery office;
- (d) Department of fish and wildlife;
- (e) Department of natural resources;
- (f) Puget Sound action team, or a successor state agency;
- (g) Conservation commission;

- (h) Department of agriculture;
- (i) Department of transportation; and
- (j) Each of the regional salmon recovery organizations.

(3) The forum on monitoring salmon recovery and watershed health shall provide a multiagency venue for coordinating technical and policy issues and actions related to monitoring salmon recovery and watershed health.

(4) The forum on monitoring salmon recovery and watershed health shall recommend a set of measures for use by the governor's salmon recovery office in the state of the salmon report to convey results and progress on salmon recovery and watershed health in ways that are easily understood by the general public.

(5) The forum on monitoring salmon recovery and watershed health shall invite the participation of federal, tribal, regional, and local agencies and entities that carry out salmon recovery and watershed health monitoring, and work toward coordination and standardization of measures used.

(6) The forum on monitoring salmon recovery and watershed health shall periodically report to the governor and the appropriate standing committees of the senate and house of representatives on the forum's activities and recommendations for improving monitoring programs by state agencies, coordinating with the governor's salmon recovery office biennial report as required by RCW 77.85.020.

(7) The forum shall review pilot monitoring programs including those that integrate (a) data collection, management, and access; and (b) information regarding habitat projects and project management.

(8) The forum on monitoring salmon recovery and watershed health shall review and make recommendations to the office of financial management and the appropriate legislative committees on agency budget requests related to monitoring salmon recovery and watershed health. These recommendations must be made no later than September 15th of each year. The goal of this review is to prioritize and integrate budget requests across agencies.

(9) This section expires June 30, 2015.

NEW SECTION. Sec. 9. Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2007."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

March 30, 2007

SSB 5242 Prime Sponsor, Senate Committee on Transportation: Establishing an internship program for wounded combat veterans. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5244 Prime Sponsor, Senate Committee on Human Services & Corrections: Implementing the deficit reduction act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Buri; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Anderson; Chandler; Dunn; Hinkle and Kretz.

Passed to Committee on Rules for second reading.

March 30, 2007

SSB 5250 Prime Sponsor, Senate Committee on Transportation: Regarding the transfer of motor vehicle ownership. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

April 2, 2007

ESSB 5267 Prime Sponsor, Senate Committee on Early Learning & K-12 Education: Providing for the use of the school district capital projects funds for technology. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended by Committee on Capital Budget and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that technology has become an integral part of the facilities and educational delivery systems in our schools. In order to prepare our state's students to participate fully in our state's economy, school districts are making substantial capital investments in their technology systems, facilities, and projects. Districts are implementing, applying, and modernizing their technology systems. Software companies are shifting from selling software as a one-time package to a license or an extended contractual relationship requiring a subscription and ongoing payments. School districts must be empowered to respond to the changing business models in the software industry and be given flexibility and authority to use capital projects funds to pay for licenses or online application fees. It is the intent of the legislature that these investments be deemed major capital purpose and are also permitted uses of the district's two to six-year levies authorized by RCW 84.52.053.

Sec. 2. RCW 28A.320.330 and 2002 c 275 s 2 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, and earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation

maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. Proceeds of federally tax-exempt obligations issued or incurred pursuant to authority granted in RCW 28A.530.010 or 28A.530.080 or under chapter 39.94 RCW may not be used for the purpose under this subsection (2)(f)(ii). However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Sec. 3. RCW 84.52.053 and 1997 c 260 s 1 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2)(f), in the year in which the first annual levy is made(~~(- PROVIDED, That)~~).

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized.

For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

Signed by Representatives Fromhold, Chairman; Ormsby, Vice Chairman; McDonald, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Blake; Chase; Dunshee; Eickmeyer; Flannigan; Hasegawa; Kelley; McCune; Orcutt; Pearson; Pedersen; Schual-Berke; Sells; Skinner; Strow and Upthegrove.

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

Passed to Committee on Rules for second reading.

March 30, 2007

SB 5272 Prime Sponsor, Senator Haugen: Modifying the administration of fuel taxes. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.36.010 and 2001 c 270 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) "Blended fuel" means a mixture of motor vehicle fuel and another liquid, other than a de minimis amount of the liquid, that can be used as a fuel to propel a motor vehicle.

(2) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

(3) "Bulk transfer" means a transfer of motor vehicle fuel by pipeline or vessel.

(4) "Bulk transfer-terminal system" means the motor vehicle fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Motor vehicle fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) ("Dealer" means a person engaged in the retail sale of motor vehicle fuel.

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

(7) "Director" means the director of licensing.

(8) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; misrepresentation of fact; or other act of deception; or

(b) An intentional: Omission; failure to file a return or report; or other act of deception.

(9) "Export" means to obtain motor vehicle fuel in this state for sales or distribution outside the state.

(10) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(11) "Import" means to bring motor vehicle fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(12) "International fuel tax agreement licensee" means a motor vehicle fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

(13) "Licensee" means a person holding a motor vehicle fuel supplier, motor vehicle fuel importer, motor vehicle fuel exporter, motor vehicle fuel blender, motor vehicle distributor, or international fuel tax agreement license issued under this chapter.

(14) "Marine fuel dealer" means a person engaged in the retail sale of motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway.

(15) "Motor vehicle fuel blender" means a person who produces blended motor fuel outside the bulk transfer-terminal system.

(16) "Motor vehicle fuel distributor" means a person who acquires motor vehicle fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

(17) "Motor vehicle fuel exporter" means a person who purchases motor vehicle fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If there is no exporter of record, the owner of the motor fuel at the time of exportation is the exporter.

(18) "Motor vehicle fuel importer" means a person who imports motor vehicle fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the motor vehicle fuel at the time of importation is the importer.

(19) "Motor vehicle fuel supplier" means a person who holds a federal certificate of registry that is issued under the internal revenue code and authorizes the person to enter into federal tax-free transactions on motor vehicle fuel in the bulk transfer-terminal system.

(20) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing motor vehicle fuel as the means of propulsion.

(21) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

(22) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

(23) "Position holder" means a person who holds the inventory position in motor vehicle fuel, as reflected by the records

of the terminal operator. A person holds the inventory position in motor vehicle fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to motor vehicle fuel. "Position holder" includes a terminal operator that owns motor vehicle fuel in their terminal.

~~((23))~~ (22) "Rack" means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

~~((24))~~ (23) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

~~((25))~~ (24) "Removal" means a physical transfer of motor vehicle fuel other than by evaporation, loss, or destruction.

~~((26))~~ (25) "Terminal" means a motor vehicle fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable motor vehicle fuel is removed at a rack.

~~((27))~~ (26) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

~~((28))~~ (27) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable motor vehicle fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable motor vehicle fuel to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder.

Sec. 2. RCW 82.36.020 and 2001 c 270 s 2 are each amended to read as follows:

(1) There is hereby levied and imposed upon motor vehicle fuel ~~((users))~~ licensees, other than motor vehicle fuel distributors, a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of motor vehicle fuel.

(2) The tax imposed by subsection (1) of this section is imposed when any of the following occurs:

(a) Motor vehicle fuel is removed in this state from a terminal if the motor vehicle fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(b) Motor vehicle fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the motor vehicle fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(c) Motor vehicle fuel enters into this state ~~((for sale, consumption, use, or storage))~~ if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Motor vehicle fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the motor vehicle fuel;

(e) Blended motor vehicle fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended motor vehicle fuel removed or sold and the number of gallons of previously taxed motor vehicle fuel used to produce the blended motor vehicle fuel;

(f) Motor vehicle fuel is sold by a licensed motor vehicle fuel supplier to a motor vehicle fuel distributor, motor vehicle fuel importer, ~~((or))~~ motor vehicle fuel blender, or international fuel tax agreement licensee and the motor vehicle fuel is not removed from the bulk transfer-terminal system.

(3) The proceeds of the motor vehicle fuel excise tax shall be distributed as provided in RCW 46.68.090.

Sec. 3. RCW 82.36.025 and 2005 c 314 s 101 are each amended to read as follows:

(1) A motor vehicle fuel tax rate of twenty-three cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(2) Beginning July 1, 2003, an additional and cumulative motor vehicle fuel tax rate of five cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors. This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(4) Beginning July 1, 2006, an additional and cumulative motor vehicle fuel tax rate of three cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(5) Beginning July 1, 2007, an additional and cumulative motor vehicle fuel tax rate of two cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

(6) Beginning July 1, 2008, an additional and cumulative motor vehicle fuel tax rate of one and one-half cents per gallon ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel shall be imposed on motor vehicle fuel licensees, other than motor vehicle fuel distributors.

Sec. 4. RCW 82.36.026 and 2001 c 270 s 3 are each amended to read as follows:

(1) A licensed supplier shall ~~((remit))~~ be liable for and pay tax to the department as provided in RCW 82.36.020. On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer ~~((who))~~ shall ~~((buyer shall remit))~~ be liable for and pay the tax.

(2) A refiner shall ~~((remit))~~ be liable for and pay tax to the department on motor vehicle fuel removed from a refinery as provided in RCW 82.36.020(2)(b).

(3) ~~((Am))~~ A licensed importer shall ((remit)) be liable for and pay tax to the department on motor vehicle fuel imported into this state as provided in RCW 82.36.020(2)(c).

(4) A licensed blender shall ~~((remit))~~ be liable for and pay tax to the department on the removal or sale of blended motor vehicle fuel as provided in RCW 82.36.020(2)(e).

(5) Nothing in this chapter shall prohibit the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to the tax.

NEW SECTION. Sec. 5. A new section is added to chapter 82.36 RCW to read as follows:

International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.36.020 to the department on motor vehicle fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.36.020 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 6. RCW 82.36.027 and 1998 c 176 s 9 are each amended to read as follows:

A terminal operator is jointly and severally liable for ((remitting)) payment of the tax imposed under RCW 82.36.020(1) if, at the time of removal:

- (1) The position holder with respect to the motor vehicle fuel is a person other than the terminal operator and is not a licensee;
- (2) The terminal operator is not a licensee;
- (3) The position holder has an expired internal revenue service notification certificate issued under 26 C.F.R. Part 48; or
- (4) The terminal operator had reason to believe that information on the notification certificate was false.

Sec. 7. RCW 82.36.031 and 1998 c 176 s 11 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax imposed under this chapter, and to periodically update license information, each licensee, other than a motor vehicle fuel distributor or an international fuel tax agreement licensee, shall file monthly tax reports with the department, on a form prescribed by the department. An international fuel tax licensee shall file quarterly tax reports with the department, on a form prescribed by the department.

A report shall be filed with the department even though no motor vehicle fuel tax is due for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and made under penalties of perjury, which declaration has the same force and effect as a verification of the report and is in lieu of the verification. The report shall show information as the department may require for the proper administration and enforcement of this chapter. Tax reports shall be filed on or before the twenty-fifth day of the next succeeding calendar month following the period to which the reports relate. If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date.

The department, if it deems it necessary in order to ensure payment of the tax imposed under this chapter, or to facilitate the administration of this chapter, may require the filing of reports and tax remittances at shorter intervals than one month.

Sec. 8. RCW 82.36.045 and 1998 c 176 s 16 are each amended to read as follows:

(1) If the department determines that the tax reported by a licensee is deficient, the department shall assess the deficiency on the basis of information available to it, and shall add a penalty of two percent of the amount of the deficiency.

(2) If a licensee, or person acting as such, fails, neglects, or refuses to file a motor vehicle fuel tax report the department shall, on the basis of information available to it, determine the tax liability of the licensee or person for the period during which no report was filed. The department shall add the penalty provided in subsection (1) of this section to the tax. An assessment made by the department under

this subsection or subsection (1) of this section is presumed to be correct. In any case, where the validity of the assessment is questioned, the burden is on the person who challenges the assessment to establish by a fair preponderance of evidence that it is erroneous or excessive, as the case may be.

(3) If a licensee or person acting as such files a false or fraudulent report with intent to evade the tax imposed by this chapter, the department shall add to the amount of deficiency a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsections (1) and (2) of this section and all other penalties prescribed by law.

(4) Motor vehicle fuel tax, penalties, and interest payable under this chapter bears interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion of it should have been paid until the date of payment. If a licensee or person acting as such establishes by a fair preponderance of evidence that the failure to pay the amount of tax due was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty. The department may waive the interest when it determines the cost of processing or collection of the interest exceeds the amount of interest due.

(5) Except in the case of a fraudulent report, neglect or refusal to make a report, or failure to pay or to pay the proper amount, the department shall assess the deficiency under subsection (1) or (2) of this section within five years from the last day of the succeeding calendar month after the reporting period for which the amount is proposed to be determined or within five years after the return is filed, whichever period expires later.

(6) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interest of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(7) A licensee or person acting as such against whom an assessment is made under subsection (1) or (2) of this section may petition for a reassessment within thirty days after service upon the licensee of notice of the assessment. If the petition is not filed within the thirty-day period, the amount of the assessment becomes final at the expiration of that period.

If a petition for reassessment is filed within the thirty-day period, the department shall reconsider the assessment and, if the petitioner has so requested in its petition, shall grant the petitioner an oral hearing and give the petitioner twenty days' notice of the time and place of the hearing. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment becomes final thirty days after service of notice upon the petitioner.

An assessment made by the department becomes due and payable when it becomes final. If it is not paid to the department when due and payable, the department shall add a penalty of ten percent of the amount of the tax.

(8) In a suit brought to enforce the rights of the state under this chapter, the assessment showing the amount of taxes, penalties, interest, and cost unpaid to the state is prima facie evidence of the facts as shown.

(9) A notice of assessment required by this section must be served personally or by certified or registered mail. If it is served by mail, service shall be made by deposit of the notice in the United

States mail, postage prepaid, addressed to the respondent at the most current address furnished to the department.

~~((10) The tax imposed by this chapter, if required to be collected by the seller, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.))~~

Sec. 9. RCW 82.36.060 and 2001 c 270 s 5 are each amended to read as follows:

(1) An application for a license issued under this chapter shall be made to the department on forms to be furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a license must contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a motor vehicle fuel importer must list on the application each state, province, or country from which the applicant intends to import motor vehicle fuel and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a motor vehicle fuel exporter must list on the application each state, province, or country to which the exporter intends to export motor vehicle fuel received in this state by means of a transfer outside of the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a motor vehicle fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on motor vehicle fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director shall require a fingerprint record check of the

applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

(7) Except as provided by subsection (8) of this section, before granting any license issued under this chapter, the department shall require applicant to file with the department, in such form as shall be prescribed by the department, a corporate surety bond duly executed by the applicant as principal, payable to the state and conditioned for faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter. The total amount of the bond or bonds shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds, the department shall require a bond or bonds equivalent in total amount to twice the estimated monthly excise tax determined in such manner as the department may deem proper. If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty percent of the established bond, the department shall require additional bonds or securities to maintain the marginal ratio herein specified or shall demand excise tax payments to be made weekly or semimonthly to meet the requirements hereof.

The total amount of the bond or bonds required of any licensee shall never be less than five thousand dollars nor more than one hundred thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a licensee may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a licensee as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond; and unless the licensee, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the license. Whenever a new bond is furnished by a licensee, the department shall cancel the old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a licensee to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such licensee, or the market value of

the properties deposited as security by the licensee, shall become impaired or inadequate; and upon the failure of the licensee to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his or her license.

(8) The department may waive the requirements of subsection (7) of this section for licensed distributors if, upon determination by the department, the licensed distributor has sufficient resources, assets, other financial instruments, or other means, to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and interest arising out of this chapter. The department shall adopt rules to administer this subsection. An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require. The department shall charge a fee of ten dollars per set of international fuel tax agreement decals issued to each applicant or licensee. The department shall transmit the fee to the state treasurer for deposit in the motor vehicle fund.

Sec. 10. RCW 82.36.080 and 1998 c 176 s 20 are each amended to read as follows:

(1) It shall be unlawful for any person to engage in business in this state as any of the following unless the person is the holder of an uncanceled license issued by the department authorizing the person to engage in that business:

- (a) Motor vehicle fuel supplier;
- (b) Motor vehicle fuel distributor;
- (c) Motor vehicle fuel exporter;
- (d) Motor vehicle fuel importer; ~~((or))~~
- (e) Motor vehicle fuel blender; or
- (f) International fuel tax agreement licensee.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity, but a motor vehicle fuel supplier is not required to obtain a separate license classification for any other activity for which a license is required.

(3) If any person acts as a licensee without first securing the license required herein the excise tax shall be immediately due and payable on account of all motor vehicle fuel distributed or used by the person. The director shall proceed forthwith to determine from the best available sources, the amount of the tax, and the director shall immediately assess the tax in the amount found due, together with a penalty of one hundred percent of the tax, and shall make a certificate of such assessment and penalty. In any suit or proceeding to collect the tax or penalty, or both, such certificate shall be prima facie evidence that the person therein named is indebted to the state in the amount of the tax and penalty therein stated. Any tax or penalty so assessed may be collected in the manner prescribed in this chapter with reference to delinquency in payment of the tax or by an action at law, which the attorney general shall commence and prosecute to final determination at the request of the director. The foregoing remedies of the state shall be cumulative and no action taken pursuant to this section shall relieve any person from the penal provisions of this chapter.

Sec. 11. RCW 82.36.160 and 1998 c 176 s 27 are each amended to read as follows:

Every licensee shall maintain in the office of his or her principal place of business in this state, for a period of five years, records of motor vehicle fuel received, sold, distributed, or used by the licensee, in such form as the director may prescribe, together with invoices,

and other pertinent papers as may be required under the provisions of this chapter.

~~((Every dealer purchasing motor vehicle fuel taxable under this chapter for the purpose of resale, shall maintain within this state, for a period of two years a record of motor vehicle fuels received, the amount of tax paid to the licensee as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.))~~

Sec. 12. RCW 82.36.180 and 1998 c 176 s 30 are each amended to read as follows:

The director, or duly authorized agents, may make such examinations of the records, stocks, facilities, and equipment of any licensee, ~~((and service stations,))~~ and make such other investigations as deemed necessary in carrying out the provisions of this chapter. If such examinations or investigations disclose that any reports of licensees theretofore filed with the director pursuant to the requirements of this chapter have shown incorrectly the gallonage of motor vehicle fuel distributed or the tax ~~((accruing))~~ liability thereon, the director may make such changes in subsequent reports and payments of such licensees as deemed necessary to correct the errors disclosed.

Every such licensee or such other person not maintaining records in this state so that an audit of such records may be made by the director or a duly authorized representative shall be required to make the necessary records available to the director upon request and at a designated office within this state; or, in lieu thereof, the director or a duly authorized representative shall proceed to any out-of-state office at which the records are prepared and maintained to make such examination.

NEW SECTION. Sec. 13. A new section is added to chapter 82.36 RCW to read as follows:

Motor vehicle fuel that is used exclusively for racing and is illegal for use on the public highways of this state under state or federal law is exempt from the tax imposed under this chapter.

Sec. 14. RCW 82.36.320 and 1961 c 15 s 82.36.320 are each amended to read as follows:

Any person claiming refund on motor vehicle fuel used other than in motor vehicles as herein provided ~~((; and any person purchasing motor vehicle fuel from a dealer who is claiming refund on account of the sale of such fuel under RCW 82.36.305))~~ may be required by the director to also furnish information regarding the amount of motor vehicle fuel purchased from other sources or for other purposes during the period reported for which no refund is claimed.

Sec. 15. RCW 82.36.340 and 1961 c 15 s 82.36.340 are each amended to read as follows:

The director may in order to establish the validity of any claim for refund require the claimant ~~((; or, in the case of a dealer filing a claim for refund as provided by RCW 82.36.305, the person to whom such fuel was sold,))~~ to furnish such additional proof of the validity of the claim as the director may determine, and may examine the books and records of the claimant or said person to whom the fuel was sold for such purpose. The records shall be sufficient to substantiate the accuracy of the claim and shall be in such form and contain such information as the director may require. The failure to maintain such records or to accede to a demand for an examination of such records may be deemed by the director as sufficient cause for

denial of all right to the refund claimed on account of the transaction in question.

Sec. 16. RCW 82.36.370 and 1998 c 176 s 42 are each amended to read as follows:

(1) A refund shall be made in the manner provided in this chapter or a credit given to a licensee allowing for the excise tax paid or accrued on all motor vehicle fuel which is lost or destroyed, while ~~((applicant shall be the owner thereof))~~ the licensee was the owner, through fire, lightning, flood, wind storm, or explosion.

(2) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel of five hundred gallons or more which is lost or destroyed, while ~~((applicant shall be))~~ the licensee was the owner thereof, through leakage or other casualty except evaporation, shrinkage or unknown causes: PROVIDED, That the director shall be notified in writing as to the full circumstances surrounding such loss or destruction and the amount of the loss or destruction within thirty days from the day of discovery of such loss or destruction.

(3) Recovery for such loss or destruction under either subsection (1) or (2) must be susceptible to positive proof thereby enabling the director to conduct such investigation and require such information as the director may deem necessary.

In the event that the director is not satisfied that the fuel was lost or destroyed as claimed, wherefore required information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, the director may deem as sufficient cause the denial of all right relating to the refund or credit for the excise tax on motor vehicle fuel alleged to be lost or destroyed.

Sec. 17. RCW 82.36.380 and 2003 c 358 s 13 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Evade a tax or fee imposed under this chapter;

(b) File a false statement of a material fact on a motor fuel license application or motor fuel refund application;

(c) Act as a motor fuel importer, motor fuel blender, or motor fuel supplier unless the person holds an uncanceled motor fuel license issued by the department authorizing the person to engage in that business;

(d) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2) A violation of subsection (1) of this section is a class C felony under chapter 9A.20 RCW. In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(3) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and

anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 18. RCW 82.36.450 and 1995 c 320 s 2 are each amended to read as follows:

~~((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's motor vehicle fuel tax, or the budgeting or use of moneys in lieu thereof, upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. CY 92-248-JLO))~~ (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding motor vehicle fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state motor vehicle fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all motor vehicle fuel only from persons or companies operating lawfully in accordance with this chapter as a motor vehicle fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of motor vehicle fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed to be personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

NEW SECTION. Sec. 19. A new section is added to chapter 82.36 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the

first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.36.020 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

Sec. 20. RCW 82.38.030 and 2005 c 314 s 102 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel ~~((users)) licensees, other than special fuel distributors,~~ a tax at the rate of twenty-three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) Beginning July 1, 2003, an additional and cumulative tax rate of five cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users)) licensees, other than special fuel distributors.~~ This subsection (2) expires when the bonds issued for transportation 2003 projects are retired.

(3) Beginning July 1, 2005, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users)) licensees, other than special fuel distributors.~~

(4) Beginning July 1, 2006, an additional and cumulative tax rate of three cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users)) licensees, other than special fuel distributors.~~

(5) Beginning July 1, 2007, an additional and cumulative tax rate of two cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users)) licensees, other than special fuel distributors.~~

(6) Beginning July 1, 2008, an additional and cumulative tax rate of one and one-half cents per gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature shall be imposed on special fuel ~~((users)) licensees, other than special fuel distributors.~~

(7) Taxes are imposed when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is ~~((to))~~ by a special fuel ~~((distributor))~~ supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel ~~((distributor))~~ supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage, unless the fuel enters this state for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320, in either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;

(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax;

(g) Dyed special fuel is held for sale, sold, used, or is intended to be used in violation of this chapter;

(h) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(i) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender and the special fuel is not removed from the bulk transfer-terminal system.

~~((8) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.)~~

Sec. 21. RCW 82.38.032 and 1998 c 176 s 52 are each amended to read as follows:

~~((The tax under RCW 82.38.030, if not previously imposed and paid, must be paid over to the department by special fuel users and persons licensed under the international fuel tax agreement or other fuel tax reciprocity agreements entered into with the state of Washington, on the use of special fuel to operate motor vehicles on the highways of this state, unless the use is exempt from the tax under this chapter.))~~ International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.38.030 to the department on special fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.38.030 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 22. RCW 82.38.035 and 2005 c 314 s 107 are each amended to read as follows:

(1) A licensed supplier shall ~~((remit))~~ be liable for and pay tax on special fuel to the department as provided in RCW 82.38.030(7)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall ~~((remit))~~ be liable for and pay the tax.

(2) A refiner shall ~~((remit))~~ be liable for and pay tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(7)(b).

(3) ~~((An))~~ A licensed importer shall ((remit)) be liable for and pay tax to the department on special fuel imported into this state as provided in RCW 82.38.030(7)(c).

(4) A licensed blender shall ((remit)) be liable for and pay tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(7)(e).

(5) A licensed dyed special fuel user shall ((remit)) be liable for and pay tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(7)(f).

(6) Nothing in this chapter prohibits the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to such tax.

Sec. 23. RCW 82.38.050 and 1990 c 250 s 82 are each amended to read as follows:

~~((Except as otherwise provided in this chapter, every special fuel user shall be liable for the tax on special fuel used in motor vehicles leased to the user for thirty days or more and operated on the highways of this state to the same extent and in the same manner as special fuel used in his own motor vehicles and operated on the highways of this state. PROVIDED, That))~~ A lessor who is engaged regularly in the business of leasing or renting for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the special fuel user when he supplies or pays for the special fuel consumed in such vehicles, and such lessor may be issued ((a)) an international fuel tax agreement license ((as a special fuel user)) when application and bond have been properly filed with and approved by the department for such license. Any lessee may exclude motor vehicles of which he or she is the lessee from reports and liabilities pursuant to this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid ((special fuel user's)) international fuel tax agreement license.

~~((Every such lessor shall file with the application for a special fuel user's license one copy of the lease form or service contract the lessor enters into with the various lessees of the lessor's motor vehicles:))~~ When the ((special fuel user's)) license has been secured, such lessor shall make and assign to each motor vehicle leased for interstate operation a photocopy of such license to be carried in the cab compartment of the motor vehicle and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of the license issued and its return to the lessor with the motor vehicle to which it is assigned.

The lessor shall be responsible for fuel tax licensing and reporting, as required by this chapter, on the operation of all motor vehicles leased to others for less than thirty days.

Sec. 24. RCW 82.38.100 and 1999 c 270 s 2 are each amended to read as follows:

(1) Any special fuel user operating a motor vehicle into this state for commercial purposes may make application for a trip permit that shall be good for a period of three consecutive days beginning and ending on the dates specified on the face of the permit issued, and only for the vehicle for which it is issued.

(2) Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety, signed, and dated by the operator before operation of the

vehicle on the public highways of this state. Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of ten dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state, and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.

(4) Blank permits may be obtained from field offices of the department of transportation, ~~((Washington state patrol,))~~ department of licensing, or other agents appointed by the department. The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.

Sec. 25. RCW 82.38.130 and 1998 c 176 s 65 are each amended to read as follows:

The department may revoke the license of any licensee for any of the grounds constituting cause for denial of a license set forth in RCW 82.38.120 or for other reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: PROVIDED, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any special fuel license immediately upon surrender thereof by the holder.

Any surety on a bond furnished by a licensee as provided in this chapter shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond, and unless the licensee, on or before the expiration of the forty-five day period, files a new bond, in accordance with this section, the department ~~((forthwith))~~ shall cancel the ~~((special fuel dealer's or special fuel user's))~~ license.

The department may require a new or additional surety bond of the character specified in RCW 82.38.020(3) if, in its opinion, the security of the surety bond therefor filed by such licensee, shall

become impaired or inadequate. Upon failure of the licensee to give such new or additional surety bond within forty-five days after being requested to do so by the department, or after he or she shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his or her license.

Sec. 26. RCW 82.38.140 and 1998 c 176 s 66 are each amended to read as follows:

(1) Every licensee and every person importing, manufacturing, refining, ~~((dealing in,))~~ transporting, blending, or storing special fuel in this state shall keep for a period of not less than five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all special fuel purchased or received and all of such products sold, delivered, or used by them. Such records shall show:

- (a) The date of each receipt;
- (b) The name and address of the person from whom purchased or received;
- (c) The number of gallons received at each place of business or place of storage in the state of Washington;
- (d) The date of each sale or delivery;
- (e) The number of gallons sold, delivered, or used for taxable purposes;
- (f) The number of gallons sold, delivered, or used for any purpose not subject to the tax imposed in this chapter;
- (g) The name, address, and special fuel license number of the purchaser if the special fuel tax is not collected on the sale or delivery;
- (h) The inventories of special fuel on hand at each place of business at the end of each month.

(2)(a) All international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highway in vehicles licensed for highway operation shall maintain detailed mileage records on an individual vehicle basis.

(b) Such operating records shall show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering special fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

(4) Every person operating any conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk shall have and possess during the entire time the person is hauling special fuel, an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consignor, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person hauling such special fuel shall at the request of any law enforcement officer or authorized representative of the department, or other person authorized by law to inquire into, or investigate those types of matters, produce for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge the contents of the vehicle.

Sec. 27. RCW 82.38.150 and 1998 c 176 s 67 are each amended to read as follows:

For the purpose of determining the amount of liability for the tax herein imposed, and to periodically update license information, each licensee, other than a special fuel distributor, an international fuel tax agreement licensee, or a dyed special fuel user, shall file monthly tax reports with the department, on forms prescribed by the department.

Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly. Special fuel users licensed under the international fuel tax agreement shall file reports quarterly. ~~((Special fuel distributors))~~ Heating oil dealers subject to the pollution liability insurance agency fee and reporting requirements shall remit pollution liability insurance agency returns and any associated payment due to the department annually.

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and is in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter. ~~((For counties within which an additional excise tax on special fuel has been levied by that jurisdiction under RCW 82.80.010, the report must show the quantities of special fuel sold, distributed, or withdrawn from bulk storage by the reporting dealer or user within the county's boundaries and the tax liability from its levy.))~~ A licensee shall file a tax report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

Sec. 28. RCW 82.38.180 and 1998 c 176 s 71 are each amended to read as follows:

Any person who has purchased special fuel on which tax has been paid ~~((a special fuel tax either directly or to the vendor from~~

whom it was purchased)) may file a claim with the department for a refund of the tax ~~((so paid and shall be reimbursed and repaid the amount of))~~ for:

(1) ~~((Any))~~ Taxes previously paid on special fuel used for purposes other than for the propulsion of motor vehicles upon the public highways in this state.

(2) ~~((Any))~~ Taxes previously paid on special fuel exported for use outside of this state. Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state. Special fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

(3) ~~((Any))~~ Tax, penalty, or interest erroneously or illegally collected or paid.

(4) ~~((Any))~~ Taxes previously paid on all special fuel which is lost or destroyed, while ~~((applicant))~~ the licensee shall be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(5) ~~((Any))~~ Taxes previously paid on all special fuel of five hundred gallons or more which is lost or destroyed while ~~((applicant))~~ the licensee shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage, or unknown causes.

(6) ~~((Any))~~ Taxes previously paid on special fuel that is inadvertently mixed with dyed special fuel.

Recovery for such loss or destruction under either subsection (4), (5), or (6) of this section must be susceptible to positive proof thereby enabling the department to conduct such investigation and require such information as ~~((they))~~ it may deem necessary. In the event that the department is not satisfied that the fuel was lost, destroyed, or contaminated as claimed because information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, ~~((they))~~ it may deem such as sufficient cause to deny all right relating to the refund or credit for the excise tax paid on special fuel alleged to be lost or destroyed.

No refund or claim for credit shall be approved by the department unless the gallons of special fuel claimed as nontaxable satisfy the conditions specifically set forth in this section and the nontaxable event or use occurred during the period covered by the refund claim. Refunds or claims for credit ~~((by sellers or users of special fuel))~~ shall not be allowed for anticipated nontaxable use or events.

Sec. 29. RCW 82.38.270 and 2003 c 358 s 14 are each amended to read as follows:

(1) It is unlawful for a person or corporation to:

(a) Have dyed diesel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed diesel in bulk storage for highway use, unless the person or corporation maintains an uncanceled dyed diesel user license or is otherwise exempted by this chapter;

(b) Evade a tax or fee imposed under this chapter;

(c) File a false statement of a material fact on a special fuel license application or special fuel refund application;

(d) Act as a special fuel importer, special fuel blender, or special fuel supplier unless the person holds an uncanceled special fuel license issued by the department authorizing the person to engage in that business;

(e) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(f) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering special fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the

name, address, and tax license number of the purchaser or consignee, and the number of gallons.

(2)(a) A single violation of subsection (1)(a) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) of this section and violations of subsection (1)(b) through (f) of this section are a class C felony under chapter 9A.20 RCW.

(3) In addition to other penalties and remedies provided by law, the court shall order a person or corporation found guilty of violating subsection (1)(b) through (f) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded, to the multimodal transportation account of the state.

(4) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax on the due date as prescribed in this chapter is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax imposed by this chapter is personally liable to the state for the amount of the tax.

Sec. 30. RCW 82.38.310 and 1995 c 320 s 3 are each amended to read as follows:

((The department of licensing may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding the imposition, collection, and use of this state's special fuel tax, or the budgeting or use of moneys in lieu thereof, upon terms substantially the same as those in the consent decree entered by the federal district court (Eastern District of Washington) in *Confederated Tribes of the Colville Reservation v. DOL, et al.*, District Court No. CY 92 248 JLO.)) (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding special fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state special fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on the effective date of this act. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on the effective date of this act.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all special fuel only from persons or companies operating lawfully in accordance with this chapter as a special fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of special fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

Sec. 31. RCW 82.38.320 and 1998 c 176 s 83 are each amended to read as follows:

(1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the special fuel tax at the time the fuel is purchased. The special authorization applies only to full truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee shall pay special fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule shall be provided in a form and manner determined by the department and shall contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed outside the state of Washington as reported on the licensee's international fuel tax agreement tax returns must have been equal to at least twenty percent of the nondyed special fuel gallons, including fuel used on-road and off-road, purchased by the licensee in the state of Washington, as reported on the accompanying schedules required under subsection (1) of this section;

(b) The licensee must have been licensed under the provisions of the international fuel tax agreement during each of the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year; and

(c) The licensee has not violated the reporting requirements of this section.

(3) Only a licensed special fuel supplier or special fuel importer may sell special fuel to a special authorization holder in the manner prescribed by this section.

(4) A special fuel ((distributor) supplier or importer) who sells special fuel under the special authorization provisions of this section is not liable for the special fuel tax on the fuel. ((By the fifteenth day of the month following the month in which the fuel was sold, the special fuel distributor shall report to the department, the name and

~~special authorization number of the purchaser and the number of gallons sold for each purchase of such special fuel, and any other information as the department may require.))~~ The special fuel supplier or importer will report such sales, in a manner prescribed by the department, at the time the special fuel supplier or importer submits the monthly tax report.

~~((4) A supplier selling special fuel under the provisions of this section shall not be responsible for taxes due for special fuel purchased under the provisions of this section.~~

~~(5) An international fuel tax agreement licensee who qualifies for a special authorization under this section for calendar year 1999 is not subject to the special fuel user requirements of RCW 82.38.289.))~~

NEW SECTION. Sec. 32. A new section is added to chapter 82.38 RCW to read as follows:

It is the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by RCW 82.38.030 but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

NEW SECTION. Sec. 33. The following acts or parts of acts are each repealed:

(1) RCW 82.36.042 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 14;

(2) RCW 82.36.273 (Refunds to licensee for fuel purchased by exempt person--Exception--Invoice or proof) and 1998 c 176 s 35;

(3) RCW 82.36.305 (Refunds to dealer delivering fuel exclusively for marine use--Limitations--Supporting certificate) and 1965 ex.s. c 79 s 12 & 1961 c 15 s 82.36.305;

(4) RCW 82.36.360 (Separate invoices for nontaxed fuel) and 1961 c 15 s 82.36.360;

(5) RCW 82.36.373 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 43;

(6) RCW 82.36.407 (Tax liability of user--Payment--Exceptions) and 1998 c 176 s 48;

(7) RCW 82.38.070 (Credit for sales for which no consideration was received--Report--Adjustment) and 1998 c 176 s 58, 1990 c 250 s 83, & 1971 ex.s. c 175 s 8;

(8) RCW 82.38.071 (Refund for worthless accounts receivable--Rules--Apportionment after receipt) and 1998 c 176 s 59;

(9) RCW 82.38.081 (Exemptions--Motor vehicle fuel used for racing) and 1998 c 115 s 6;

(10) RCW 82.38.185 (Refunds--Tax paid purchased by exempt person--Application) and 1998 c 176 s 73;

(11) RCW 82.38.285 (Tax liability of user--Exceptions) and 1998 c 176 s 81; and

(12) RCW 82.38.165 (Notice by supplier of distributor's failure to pay tax--License suspension--Notice to suppliers--Revocation or suspension upon continued noncompliance) and 1998 c 176 s 69.

NEW SECTION. Sec. 34. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Uptegrove; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Rodne.

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5320 Prime Sponsor, Senate Committee on Judiciary: Creating an office of public guardianship as an independent agency of the judiciary. 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.** In establishing an office of public guardianship, the legislature intends to promote the availability of guardianship services for individuals who need them and for whom adequate services may otherwise be unavailable. The legislature reaffirms its commitment to treat liberty and autonomy as paramount values for all Washington residents and to authorize public guardianship only to the minimum extent necessary to provide for health or safety, or to manage financial affairs, when the legal conditions for appointment of a guardian are met. It does not intend to alter those legal conditions or to expand judicial authority to determine that any individual is incapacitated.

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

(1) "Office" means the office of public guardianship.

(2) "Public guardian" means an individual or entity providing public guardianship services.

(3) "Public guardianship services" means the services provided by a guardian or limited guardian appointed under chapters 11.88 and 11.92 RCW, who is compensated under a contract with the office of public guardianship.

(4) "Long-term care services" means services provided through the department of social and health services either in a hospital or skilled nursing facility, or in another setting under a home and community-based waiver authorized under 42 U.S.C. Sec. 1396n.

NEW SECTION. Sec. 3. (1) There is created an office of public guardianship as an independent agency of the judicial branch.

(2) The supreme court shall appoint a public guardianship administrator to establish and administer a public guardianship program in the office of public guardianship. The public guardianship administrator serves at the pleasure of the supreme court.

NEW SECTION. Sec. 4. The public guardianship administrator is authorized to establish and administer a public guardianship program as follows:

(1)(a) The office shall contract with public or private entities or individuals to provide public guardianship services to persons age eighteen or older whose income does not exceed two hundred percent of the federal poverty level determined annually by the United States department of health and human services or who are receiving long-term care services through the Washington state department of social and health services. Neither the public guardianship administrator nor the office may act as public guardian or limited guardian or act in any other representative capacity for any individual.

(b) The office is exempt from RCW 39.29.008 because the primary function of the office is to contract for public guardianship services that are provided in a manner consistent with the requirements of this chapter. The office shall otherwise comply with chapter 39.29 RCW and is subject to audit by the state auditor.

(c) Public guardianship service contracts are dependent upon legislative appropriation. This chapter does not create an entitlement.

(d) The initial implementation of public guardianship services shall be on a pilot basis in a minimum of two geographical areas that include one urban area and one rural area. There may be one or several contracts in each area.

(2) The office shall, within one year of the commencement of its operation, adopt eligibility criteria to enable it to serve individuals with the greatest need when the number of cases in which courts propose to appoint a public guardian exceeds the number of cases in which public guardianship services can be provided. In adopting such criteria, the office may consider factors including, but not limited to, the following: Whether an incapacitated individual is at significant risk of harm from abuse, exploitation, abandonment, neglect, or self-neglect; and whether an incapacitated person is in imminent danger of loss or significant reduction in public services that are necessary for the individual to live successfully in the most integrated and least restrictive environment that is appropriate in light of the individual's needs and values.

(3) The office shall adopt minimum standards of practice for public guardians providing public guardianship services. Any public guardian providing such services must be certified by the certified professional guardian board established by the supreme court.

(4) The office shall require a public guardian to visit each incapacitated person for which public guardianship services are provided no less than monthly to be eligible for compensation.

(5) The office shall not petition for appointment of a public guardian for any individual. It may develop, and shall consult with the advisory committee regarding the need to develop, a proposal for the legislature to make affordable legal assistance available to petition for guardianships.

(6) The office shall not authorize payment for services for any entity that is serving more than twenty incapacitated persons per certified professional guardian.

(7) The office shall monitor and oversee the use of state funding to ensure compliance with this chapter.

(8) The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the legislature and supreme court in a format that is not identifiable by individual incapacitated person to protect confidentiality.

(9) The office shall report to the legislature on how services other than guardianship services, and in particular services that might reduce the need for guardianship services, might be provided under contract with the office by December 1, 2009. The services to be

considered should include, but not be limited to, services provided under powers of attorney given by the individuals in need of the services.

(10) The office shall submit a biennial budget request.

(11) The office shall require public guardianship providers to seek reimbursement of fees from program clients who are receiving long-term care services through the department of social and health services to the extent, and only to the extent, that such reimbursement may be paid, consistent with an order of the superior court, from income that would otherwise be required by the department to be paid toward the cost of the client's care. Fees reimbursed shall be remitted by the provider to the office unless a different disposition is directed by the public guardianship administrator.

(12) The office shall require public guardianship providers to certify annually that for each individual served they have reviewed the need for continued public guardianship services and the appropriateness of limiting, or further limiting, the authority of the public guardian under the applicable guardianship order, and that where termination or modification of a guardianship order appears warranted, the superior court has been asked to take the corresponding action.

(13) The office shall adopt a process for receipt and consideration of and response to complaints against the office and contracted providers of public guardianship services. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator. The office shall provide the advisory committee with a summary and analysis of the results of these complaints. When requested by the complaining party, his or her identity shall not be disclosed to the advisory committee created under section 5 of this act.

(14) The office shall contract with the Washington state institute for public policy for a study. An initial report is due two years following the effective date of this section and a second report by December 1, 2011. The study shall analyze costs and off-setting savings to the state from the delivery of public guardianship services.

(15) The office shall develop standardized forms and reporting instruments that may include, but are not limited to, intake, initial assessment, guardianship care plan, decisional accounting, staff time logs, changes in condition or abilities of an incapacitated person, and values history. The office shall collect and analyze the data gathered from these reports and submit it to the advisory committee periodically.

(16) The office shall identify training needs for guardians it contracts with, and shall make recommendations, after consultation with the advisory committee, to the supreme court, the certified professional guardian board, and the legislature for improvements in guardianship training. The office may offer training to individuals providing services pursuant to this chapter.

(17) The office shall establish a system for monitoring the performance of public guardians, and office staff shall make in-home visits to a randomly selected sample of public guardianship clients. The office may conduct further monitoring, including in-home visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a public guardianship client that is available to the guardian. The office shall confer with the advisory committee in developing its monitoring process.

(18) During the first five years of its operations, the office shall issue annual reports of its activities, after review of and comment by the advisory committee.

NEW SECTION. Sec. 5. (1) There is created a public guardianship advisory committee consisting of the following members:

(a) Two persons appointed by the supreme court;

(b) Two persons appointed by the board for judicial administration;

(c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(d) One person appointed by the governor;

(e) One person appointed by the secretary of the department of social and health services;

(f) Two persons appointed by the director of the Washington protection and advocacy system;

(g) One person appointed by the chairperson of the governor's committee on disability issues and employment;

(h) Two persons appointed by the chairperson of the developmental disabilities council;

(i) One person appointed by the long-term care ombudsman;

(j) One person appointed by the Washington state bar association; and

(k) One person appointed by the dean of the University of Washington school of social work.

(2) During the term of his or her appointment, an appointee may not be employed by a provider of public guardianship services.

(3) Except as provided in subsection (4) of this section, members shall each serve a three-year term, subject to renewal for no more than one additional three-year term.

(4) The first appointments to the advisory committee shall be for terms of varying durations as follows: By the supreme court for two and four years; by the board for judicial administration for three and four years; by the president of the senate for two and three years; by the speaker of the house of representatives for two and three years; by the governor for four years; by the secretary of the department of social and health services for two years; by the director of the Washington protection and advocacy system for one and three years; by the chairperson of the governor's committee on disability issues and employment for four years; by the chairperson of the developmental disabilities council for two and four years; by the long-term care ombudsman for three years; by the Washington state bar association for three years; and by the dean of the University of Washington school of social work for four years.

(5) Members of the advisory committee receive no compensation for their services as members of the advisory committee, but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(6) The advisory committee: Shall review the activities of the office; shall review the performance of the public guardianship administrator; and may make recommendations to the supreme court, the certified professional guardian board, and the legislature on issues relating to the provision of public guardianship services.

(7) The meetings of the advisory committee shall be open to the public, with agendas published in advance and minutes kept and made available to the public. The public notice of all meetings shall indicate that accommodations for disability will be available upon request.

NEW SECTION. Sec. 6. The courts shall waive court costs and filing fees in any proceeding in which an incapacitated person is receiving public guardianship services funded under this chapter.

NEW SECTION. Sec. 7. The public guardianship administrator may develop rules to implement this chapter. The administrator shall request and consider recommendations from the advisory committee in the development of rules.

NEW SECTION. Sec. 8. 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. 9. Sections 1 through 8 of this act constitute a new chapter in Title 2 RCW."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler and Kretz.

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5321 Prime Sponsor, Senate Committee on Human Services & Corrections: Addressing child welfare. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by the Committee on Early Learning & Children's Services. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler and Kretz.

Passed to Committee on Rules for second reading.

March 31, 2007

ESSB 5372 Prime Sponsor, Senate Committee on Water, Energy & Telecommunications: Creating the Puget Sound partnership. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Select Committee on Puget Sound.

Strike everything after the enacting clause and insert the following:

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

(a) Puget Sound, including Hood Canal, and the waters that flow to it are a national treasure and a unique resource. Residents enjoy a way of life centered around these waters that depends upon clean and healthy marine and freshwater resources.

(b) Puget Sound is in serious decline, and Hood Canal is in a serious crisis. This decline is indicated by loss of and damage to critical habit, rapid decline in species populations, increases in aquatic nuisance species, numerous toxics contaminated sites, urbanization and attendant storm water drainage, closure of beaches to shellfish harvest due to disease risks, low-dissolved oxygen levels causing death of marine life, and other phenomena. If left unchecked, these conditions will worsen.

(c) Puget Sound must be restored and protected in a more coherent and effective manner. The current system is highly fragmented. Immediate and concerted action is necessary by all levels of government working with the public, nongovernmental organizations, and the private sector to ensure a thriving natural system that exists in harmony with a vibrant economy.

(d) Leadership, accountability, government transparency, thoughtful and responsible spending of public funds, and public involvement will be integral to the success of efforts to restore and protect Puget Sound.

(2) The legislature therefore creates a new Puget Sound partnership to coordinate and lead the effort to restore and protect Puget Sound, and intends that all governmental entities, including federal and state agencies, tribes, cities, counties, ports, and special purpose districts, support and help implement the partnership's restoration efforts. The legislature further intends that the partnership will:

(a) Define a strategic action agenda prioritizing necessary actions, both basin-wide and within specific areas, and creating an approach that addresses all of the complex connections among the land, water, web of species, and human needs. The action agenda will be based on science and include clear, measurable goals for the recovery of Puget Sound by 2020;

(b) Determine accountability for performance, oversee the efficiency and effectiveness of money spent, educate and engage the public, and track and report results to the legislature, the governor, and the public;

(c) Not have regulatory authority, nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(3) It is the goal of the state that the health of Puget Sound be restored by 2020.

Sec. 2. 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:

(2) "Chair" means the chair of the action team.

— (3) "Council" means the Puget Sound council created in RCW 90.71.030.

— (4) "Puget Sound management plan" means the 1994 Puget Sound water quality management plan as it exists June 30, 1996, and as subsequently amended by the action team.

— (5) "Support staff" means the staff to the action team.

— (6) "Work plan" means the work plan and budget developed by the action team.) "Action agenda" means the comprehensive schedule of projects, programs, and other activities designed to achieve a healthy Puget Sound ecosystem that is authorized and further described in sections 12 and 13 of this act.

— (2) "Action area" means the geographic areas delineated as provided in section 8 of this act.

— (3) "Benchmarks" means measurable interim milestones or achievements established to demonstrate progress towards a goal, objective, or outcome.

— (4) "Board" means the ecosystem coordination board.

— (5) "Council" means the leadership council.

— (6) "Environmental indicator" means a physical, biological, or chemical measurement, statistic, or value that provides a proximate gauge, or evidence of, the state or condition of Puget Sound.

— (7) "Implementation strategies" means the strategies incorporated on a biennial basis in the action agenda developed under section 13 of this act.

— (8) "Nearshore" means the area beginning at the crest of coastal bluffs and extending seaward through the marine photic zone, and to the head of tide in coastal rivers and streams. "Nearshore" also means both shoreline and estuaries.

— (9) "Panel" means the Puget Sound science panel.

— (10) "Partnership" means the Puget Sound partnership.

— (11) "Puget Sound" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

— (12) "Puget Sound partner" means an entity that has been recognized by the partnership, as provided in section 16 of this act, as having consistently achieved outstanding progress in implementing the 2020 action agenda.

— (13) "Watershed groups" means all groups sponsoring or administering watershed programs, including but not limited to local governments, private sector entities, watershed planning units, watershed councils, shellfish protection areas, regional fishery enhancement groups, marine resource committees including those working with the northwest straits commission, nearshore groups, and watershed lead entities.

— (14) "Watershed programs" means and includes all watershed-level plans, programs, projects, and activities that relate to or may contribute to the protection or restoration of Puget Sound waters. Such programs include jurisdiction-wide programs regardless of whether more than one watershed is addressed.

NEW SECTION. Sec. 3. PUGET SOUND PARTNERSHIP-- AGENCY CREATED. An agency of state government, to be known as the Puget Sound partnership, is created to oversee the restoration of the environmental health of Puget Sound by 2020. The agency shall consist of a leadership council, an executive director, an ecosystem coordination board, and a Puget Sound science panel.

NEW SECTION. Sec. 4. LEADERSHIP COUNCIL-- STRUCTURE---PROCEDURES. (1) The partnership shall be led by a leadership council composed of seven members appointed by the governor, with the advice and consent of the senate. The governor shall appoint members who are publicly respected and influential, are interested in the environmental and economic prosperity of Puget Sound, and have demonstrated leadership qualities. The governor shall designate one of the seven members to serve as chair and a vice-chair shall be selected annually by the membership of the council.

(2) The initial members shall be appointed as follows:

(a) Three of the initial members shall be appointed for a term of two years;

(b) Two of the initial members shall be appointed for a term of three years; and

(c) Two of the initial members shall be appointed for a term of four years.

(3) The initial members' successors shall be appointed for terms of four years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds.

(4) Members of the council are eligible for reappointment.

(5) Any member of the council may be removed by the governor for cause.

(6) Members whose terms expire shall continue to serve until reappointed or replaced by a new member.

(7) A majority of the council constitutes a quorum for the transaction of business.

(8) Council decisions and actions require majority vote approval of all council members.

NEW SECTION. Sec. 5. LEADERSHIP COUNCIL-- POWERS AND DUTIES. (1) The leadership council shall have the power and duty to:

(a) Provide leadership and have responsibility for the functions of the partnership, including adopting, revising, and guiding the implementation of the action agenda, allocating funds for Puget Sound recovery, providing progress and other reports, setting strategic priorities and benchmarks, adopting and applying accountability measures, and making appointments to the board and panel;

(b) Adopt rules, in accordance with chapter 34.05 RCW;

(c) Create subcommittees and advisory committees as appropriate to assist the council;

(d) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions to effectuate the purposes of this chapter;

(e) Make grants to governmental and nongovernmental entities to effectuate the purposes of this chapter;

(f) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the partnership to effectuate the purposes of this chapter;

(g) Promote extensive public awareness, education, and participation in Puget Sound protection and recovery;

(h) Work collaboratively with the Hood Canal coordinating council established in chapter 90.88 RCW on Hood Canal-specific issues;

(i) Maintain complete and consolidated financial information to ensure that all funds received and expended to implement the action agenda have been accounted for; and

(j) Such other powers and duties as are necessary and appropriate to carry out the provisions of this chapter.

(2) The council may delegate functions to the chair and to the executive director, however the council may not delegate its decisional authority regarding developing or amending the action agenda.

(3) The council shall work closely with existing organizations and all levels of government to ensure that the action agenda and its implementation are scientifically sound, efficient, and achieve necessary results to accomplish recovery of Puget Sound to health by 2020.

(4) The council shall support, engage, and foster collaboration among watershed groups to assist in the recovery of Puget Sound.

(5) When working with federally recognized Indian tribes to develop and implement the action agenda, the council shall conform to the procedures and standards required in a government-to-governmental relationship with tribes under the 1989 Centennial Accord between the state of Washington and the sovereign tribal governments in the state of Washington.

(6) Members of the council shall be compensated in accordance with RCW 43.03.220 and be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 6. EXECUTIVE DIRECTOR-- POWERS AND DUTIES. (1) The partnership shall be administered by an executive director who serves as a communication link between all levels of government, the private sector, tribes, nongovernmental organizations, the council, the board, and the panel. The executive director shall be accountable to the council and the governor for effective communication, actions, and results.

(2) The executive director shall be appointed by and serve at the pleasure of the governor, in consultation with the council. The governor shall consider the recommendations of the council when appointing the executive director.

(3) The executive director shall have complete charge of and supervisory powers over the partnership, subject to the guidance from the council.

(4) The executive director shall employ a staff, who shall be state employees under Title 41 RCW.

(5) Upon approval of the council, the executive director may take action to create a private nonprofit entity, which may take the form of a nonprofit corporation, to assist the partnership in restoring Puget Sound by:

(a) Raising money and other resources through charitable giving, donations, and other appropriate mechanisms;

(b) Engaging and educating the public regarding Puget Sound's health, including efforts and opportunities to restore Puget Sound ecosystems; and

(c) Performing other similar activities as directed by the partnership.

NEW SECTION. Sec. 7. ECOSYSTEM COORDINATION BOARD. (1) The council shall convene the ecosystem coordination board not later than October 1, 2007.

(2) The board shall consist of the following:

(a) One representative from the geographic area of each of the action areas specified in section 8 of this act, appointed by the council. The council shall solicit nominations from, at a minimum, counties, cities, and watershed groups;

(b) Two members representing general business interests, appointed by the council;

(c) Two members representing environmental interests, appointed by the council;

(d) Three representatives of tribal governments located in Puget Sound, invited by the governor to participate as members of the board;

(e) One representative each from counties, cities, and port districts, appointed by the council from nominations submitted by statewide associations representing such local governments;

(f) Three representatives of state agencies with environmental management responsibilities in Puget Sound, representing the interests of all state agencies, one of whom shall be the commissioner of public lands or his or her designee; and

(g) Three representatives of federal agencies with environmental management responsibilities in Puget Sound, representing the interests of all federal agencies and invited by the governor to participate as members of the board.

(3) The president of the senate shall appoint two senators, one from each major caucus, as legislative liaisons to the board. The speaker of the house of representatives shall appoint two representatives, one from each major caucus, as legislative liaisons to the board.

(4) The board shall elect one of its members as chair, and one of its members as vice-chair.

(5) The board shall advise and assist the council in carrying out its responsibilities in implementing this chapter, including development and implementation of the action agenda. The board's duties include:

(a) Assisting cities, counties, ports, tribes, watershed groups, and other governmental and private organizations in the compilation of local programs for consideration for inclusion in the action agenda as provided in section 8 of this act;

(b) Upon request of the council, reviewing and making recommendations regarding activities, projects, and programs proposed for inclusion in the action agenda, including assessing existing ecosystem scale management, restoration and protection plan elements, activities, projects, and programs for inclusion in the action agenda;

(c) Seeking public and private funding and the commitment of other resources for plan implementation;

(d) Assisting the council in conducting public education activities regarding threats to Puget Sound and about local implementation strategies to support the action agenda; and

(e) Recruiting the active involvement of and encouraging the collaboration and communication among governmental and nongovernmental entities, the private sector, and citizens working to achieve the recovery of Puget Sound.

(6) Members of the board, except for federal and state employees, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 8. INTEGRATING WATERSHED PROGRAMS AND ECOSYSTEM SCALE PLANS INTO THE ACTION AGENDA. (1) The partnership shall develop the action agenda in part upon the foundation of existing watershed programs that address or contribute to the health of Puget Sound. To ensure full consideration of these watershed programs in a timely manner to meet the required date for adoption of the action agenda, the partnership shall rely largely upon local watershed groups, tribes, cities, counties, special purpose districts, and the private sector, who are engaged in developing and implementing these programs.

(2) The partnership shall organize this work by working with these groups in the following geographic action areas of Puget Sound, which collectively encompass all of the Puget Sound basin

and include the areas draining to the marine waters in these action areas:

- (a) Strait of Juan de Fuca;
- (b) The San Juan Islands;
- (c) Whidbey Island;
- (d) North central Puget Sound;
- (e) South central Puget Sound;
- (f) South Puget Sound; and
- (g) Hood Canal.

(3) The council shall define the geographic delineations of these action areas based upon the common issues and interests of the entities in these action areas, and upon the characteristics of the Sound's physical structure, and the water flows into and within the Sound.

(4) The executive director, working with the board representatives from each action area, shall invite appropriate tribes, local governments, and watershed groups to convene for the purpose of compiling the existing watershed programs relating or contributing to the health of Puget Sound. The participating groups should work to identify the applicable local plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda. This may include a prioritization among plan elements, projects, and programs.

(5) The partnership may provide assistance to watershed groups in those action areas that are developing and implementing programs included within the action agenda, and to improve coordination among the groups to improve and accelerate the implementation of the action agenda.

(6) The executive director, working with the board, shall also compile and assess ecosystem scale management, restoration, and protection plans for the Puget Sound basin.

(a) At a minimum, the compilation shall include the Puget Sound nearshore estuary project, clean-up plans for contaminated aquatic lands and shorelands, aquatic land management plans, state resource management plans, habitat conservation plans, and recovery plans for salmon, orca, and other species in Puget Sound that are listed under the federal endangered species act.

(b) The board should work to identify and assess applicable ecosystem scale plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda.

(c) When the board identifies conflicts or disputes among ecosystem scale projects or programs, the board may convene the agency managers in an attempt to reconcile the conflicts with the objective of advancing the protection and recovery of Puget Sound.

(d) If it determines that doing so will increase the likelihood of restoring Puget Sound by 2020, the partnership may explore the utility of federal assurances under the endangered species act, 16 U.S.C. Sec. 1531 et seq., and shall confer with the federal services administering that act.

(7) The executive director shall integrate and present the proposed elements from watershed programs and ecosystem-level plans to the council for consideration for inclusion in the action agenda not later than July 1, 2008.

NEW SECTION. Sec. 9. SCIENCE PANEL--CREATED. (1) The council shall appoint a nine-member Puget Sound science panel to provide independent, nonrepresentational scientific advice to the council and expertise in identifying environmental indicators and benchmarks for incorporation into the action agenda.

(2) In establishing the panel, the council shall request the Washington academy of sciences, created in chapter 70.220 RCW, to nominate fifteen scientists with recognized expertise in fields of science essential to the recovery of Puget Sound. Nominees should reflect the full range of scientific and engineering disciplines involved in Puget Sound recovery. At a minimum, the Washington academy of sciences shall consider making nominations from scientists associated with federal, state, and local agencies, tribes, the business and environmental communities, members of the K-12, college, and university communities, and members of the board. The solicitation should be to all sectors, and candidates may be from all public and private sectors. Persons nominated by the Washington academy of sciences must disclose any potential conflicts of interest, and any financial relationship with any leadership council member, and disclose sources of current financial support and contracts relating to Puget Sound recovery.

(3) The panel shall select a chair and a vice-chair. Panel members shall serve four-year terms, except that the council shall determine initial terms of two, three, and four years to provide for staggered terms. The council shall determine reappointments and select replacements or additional members of the panel. No panel member may serve longer than twelve years.

(4) The executive director shall designate a lead staff scientist to coordinate panel actions, and administrative staff to support panel activities. The legislature intends to provide ongoing funding for staffing of the panel to ensure that it has sufficient capacity to provide independent scientific advice.

(5) The executive director of the partnership and the science panel shall explore a shared state and federal responsibility for the staffing and administration of the panel. In the event that a federally sponsored Puget Sound recovery office is created, the council may propose that such office provide for staffing and administration of the panel.

(6) The panel shall assist the council in developing and revising the action agenda, making recommendations to the action agenda, and making recommendations to the council for updates or revisions.

(7) Members of the panel shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, and based upon the availability of funds, the council may contract with members of the panel for compensation for their services under chapter 39.29 RCW. If appointees to the panel are employed by the federal, state, tribal, or local governments, the council may enter into interagency personnel agreements.

NEW SECTION. Sec. 10. SCIENCE PANEL--FUNCTIONS AND DUTIES. (1) The panel shall:

(a) Assist the council, board, and executive director in carrying out the obligations of the partnership, including preparing and updating the action agenda;

(b) As provided in section 8 of this act, assist the partnership in developing an ecosystem level strategic science program that:

(i) Addresses monitoring, modeling, data management, and research; and

(ii) Identifies science gaps and recommends research priorities;

(c) Develop and provide oversight of a competitive peer-reviewed process for soliciting, strategically prioritizing, and funding research and modeling projects;

(d) Provide input to the executive director in developing biennial implementation strategies; and

(e) Offer an ecosystem-wide perspective on the science work being conducted in Puget Sound and by the partnership.

(2) The panel should collaborate with other scientific groups and consult other scientists in conducting its work. To the maximum extent possible, the panel should seek to integrate the state-sponsored Puget Sound science program with the Puget Sound science activities of federal agencies, including working toward an integrated research agenda and Puget Sound science work plan.

(3) By July 31, 2008, the panel shall identify environmental indicators measuring the health of Puget Sound, and recommend environmental benchmarks that need to be achieved to meet the goals of the action agenda. The council shall confer with the panel on incorporating the indicators and benchmarks into the action agenda.

NEW SECTION. Sec. 11. SCIENCE PANEL--PROGRAMS, UPDATES, AND WORK PLANS. (1) The strategic science program shall be developed by the panel with assistance and staff support provided by the executive director. The science program may include:

(a) Continuation of the Puget Sound assessment and monitoring program, as provided in RCW 90.71.060, as well as other monitoring or modeling programs deemed appropriate by the executive director;

(b) Development of a monitoring program, in addition to the provisions of RCW 90.71.060, including baselines, protocols, guidelines, and quantifiable performance measures, to be recommended as an element of the action agenda;

(c) Recommendations regarding data collection and management to facilitate easy access and use of data by all participating agencies and the public; and

(d) A list of critical research needs.

(2) The strategic science program may not become an official document until a majority of the members of the council votes for its adoption.

(3) A Puget Sound science update shall be developed by the panel with assistance and staff support provided by the executive director. The panel shall submit the initial update to the executive director by April 2010, and subsequent updates as necessary to reflect new scientific understandings. The update shall:

(a) Describe the current scientific understanding of various physical attributes of Puget Sound;

(b) Serve as the scientific basis for the selection of environmental indicators measuring the health of Puget Sound; and

(c) Serve as the scientific basis for the status and trends of those environmental indicators.

(4) The executive director shall provide the Puget Sound science update to the Washington academy of sciences, the governor, and appropriate legislative committees, and include:

(a) A summary of information in existing updates; and

(b) Changes adopted in subsequent updates and in the state of the Sound reports produced pursuant to section 19 of this act.

(5) A biennial science work plan shall be developed by the panel, with assistance and staff support provided by the executive director, and approved by the council. The biennial science work plan shall include, at a minimum:

(a) Identification of recommendations from scientific and technical reports relating to Puget Sound;

(b) A description of the Puget Sound science-related activities being conducted by various entities in the region, including studies, models, monitoring, research, and other appropriate activities;

(c) A description of whether the ongoing work addresses the recommendations and, if not, identification of necessary actions to fill gaps;

(d) Identification of specific biennial science work actions to be done over the course of the work plan, and how these actions address science needs in Puget Sound; and

(e) Recommendations for improvements to the ongoing science work in Puget Sound.

NEW SECTION. Sec. 12. ACTION AGENDA--GOALS AND OBJECTIVES. (1) The action agenda shall consist of the goals and objectives in this section, implementation strategies to meet measurable outcomes, benchmarks, and identification of responsible entities. By 2020, the action agenda shall strive to achieve the following goals:

(a) A healthy human population supported by a healthy Puget Sound that is not threatened by changes in the ecosystem;

(b) A quality of human life that is sustained by a functioning Puget Sound ecosystem;

(c) Healthy and sustaining populations of native species in Puget Sound, including a robust food web;

(d) A healthy Puget Sound where freshwater, estuary, near shore, marine, and upland habitats are protected, restored, and sustained;

(e) An ecosystem that is supported by ground water levels as well as river and stream flow levels sufficient to sustain people, fish, and wildlife, and the natural functions of the environment;

(f) Fresh and marine waters and sediments of a sufficient quality so that the waters in the region are safe for drinking, swimming, shellfish harvest and consumption, and other human uses and enjoyment, and are not harmful to the native marine mammals, fish, birds, and shellfish of the region.

(2) The action agenda shall be developed and implemented to achieve the following objectives:

(a) Protect existing habitat and prevent further losses;

(b) Restore habitat functions and values;

(c) Significantly reduce toxics entering Puget Sound fresh and marine waters;

(d) Significantly reduce nutrients and pathogens entering Puget Sound fresh and marine waters;

(e) Improve water quality and habitat by managing storm water runoff;

(f) Provide water for people, fish and wildlife, and the environment;

(g) Protect ecosystem biodiversity and recover imperiled species; and

(h) Build and sustain the capacity for action.

NEW SECTION. Sec. 13. ACTION AGENDA--DEVELOPMENT AND ELEMENTS. (1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in section 12 of this act. The action agenda shall:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound;

(b) Describe the problems affecting Puget Sound's health using supporting scientific data, and provide a summary of the historical environmental health conditions of Puget Sound so as to determine past levels of pollution and restorative actions that have established the current health conditions of Puget Sound;

(c) Meet the goals and objectives described in section 12 of this act, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks

designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

(d) Identify and prioritize the strategies and actions necessary to restore and protect Puget Sound and to achieve the goals and objectives described in section 12 of this act;

(e) Identify the agency, entity, or person responsible for completing the necessary strategies and actions, and potential sources of funding;

(f) Include prioritized actions identified through the assembled proposals from each of the seven action areas and the identification and assessment of ecosystem scale programs as provided in section 8 of this act;

(g) Include specific actions to address aquatic rehabilitation zone one, as defined in RCW 90.88.010;

(h) Incorporate, any additional goals adopted by the council; and

(i) Incorporate appropriate actions to carry out the science work plan created in section 11 of this act.

(2) In developing the action agenda and any subsequent revisions, the council shall, when appropriate, incorporate the following:

(a) Water quality, water quantity, sediment quality, watershed, marine resource, and habitat restoration plans created by governmental agencies, watershed groups, and marine and shoreline groups. The council shall consult with the board in incorporating these plans;

(b) Recovery plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act;

(c) Existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies;

(d) Appropriate portions of the Puget Sound water quality management plan existing on the effective date of this section.

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

(4) The council shall adopt the action agenda by September 1, 2008. The council shall revise the action agenda as needed, and revise the implementation strategies every two years using an adaptive management process informed by tracking actions and monitoring results in Puget Sound. In revising the action agenda and the implementation strategies, the council shall consult the panel and the board and provide opportunity for public review and comment. Biennial updates shall:

(a) Contain a detailed description of prioritized actions necessary in the biennium to achieve the goals, objectives, outcomes, and benchmarks of progress identified in the action agenda;

(b) Identify the agency, entity, or person responsible for completing the necessary action; and

(c) Establish biennial benchmarks for near-term actions.

(5) The action agenda shall be organized and maintained in a single document to facilitate public accessibility to the plan.

NEW SECTION. Sec. 14. DEVELOPMENT OF BIENNIAL BUDGET REQUESTS. (1) State agencies responsible for implementing elements of the action agenda shall:

(a) Provide to the partnership by June 1st of each even-numbered year their estimates of the actions and the budget resources needed for the forthcoming biennium to implement their portion of the action agenda; and

(b) Work with the partnership in the development of biennial budget requests to achieve consistency with the action agenda to be submitted to the governor for consideration in the governor's biennial budget request. The agencies shall seek the concurrence of the partnership in the proposed funding levels and sources included in this proposed budget.

(2) If a state agency submits an amount different from that developed in subsection (1)(a) of this section as part of its biennial budget request, the partnership and state agency shall jointly identify the differences and the reasons for these differences and present this information to the office of financial management by October 1st of each even-numbered year.

NEW SECTION. Sec. 15. FUNDING FROM PARTNERSHIP--ACCOUNTABILITY. (1) Any funding made available directly to the partnership from the Puget Sound recovery account created in section 23 of this act and used by the partnership for loans, grants, or funding transfers to other entities shall be prioritized according to the action agenda developed pursuant to section 13 of this act.

(2) The partnership shall condition, with interagency agreements, any grants or funding transfers to other entities to ensure accountability in the expenditure of the funds and to ensure that the funds are used by the recipient entity in the manner determined by the partnership to be the most consistent with the priorities of the action agenda. Any conditions placed on federal funding under this section shall incorporate and be consistent with requirements under signed agreements between the entity and the federal government.

(3) If the partnership finds that the provided funding was not used as instructed in the interagency agreement, the partnership may suspend or further condition future funding to the recipient entity.

(4) The partnership shall require any entity that receives funds for implementing the action agenda to publicly disclose and account for expenditure of those funds.

NEW SECTION. Sec. 16. IMPLEMENTATION--FISCAL ACCOUNTABILITY. (1) The legislature intends that fiscal incentives and disincentives be used as accountability measures designed to achieve consistency with the action agenda by:

(a) Ensuring that projects and activities in conflict with the action agenda are not funded;

(b) Aligning environmental investments with strategic priorities of the action agenda; and

(c) Using other state and loan programs to encourage consistency with the action agenda.

(2) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. In developing such performance measures, the council shall establish criteria for the expenditure of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provided Puget Sound funds.

(3) The partnership shall work with other state agencies providing grant and loan funds or other financial assistance for

projects and activities that impact the health of the Puget Sound ecosystem under chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and 90.50A RCW to, within the authorities of the programs, develop consistent funding criteria that prohibits funding projects and activities that are in conflict with the action agenda.

(4) The partnership shall develop a process and criteria by which entities that consistently achieve outstanding progress in implementing the action agenda are designated as Puget Sound partners. State agencies shall work with the partnership to revise their grant, loan, or other financial assistance allocation criteria to create a preference for entities designated as Puget Sound partners for funds allocated to the Puget Sound basin, pursuant to RCW 43.155.070, 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040.

(5) Any entity that receives state funds to implement actions required in the action agenda shall report biennially to the council on progress in completing the action and whether expected results have been achieved within the time frames specified in the action agenda.

NEW SECTION. Sec. 17. ACCOUNTABILITY FOR IMPLEMENTATION. (1) The council is accountable for achieving the action agenda. The legislature intends that all governmental entities within Puget Sound will exercise their existing authorities to implement the applicable provisions of the action agenda.

(2) The partnership shall involve the public and implementing entities to develop standards and processes by which the partnership will determine whether implementing entities are taking actions consistent with the action agenda and achieving the outcomes identified in the action agenda. Among these measures, the council may hold management conferences with implementing entities to review and assess performance in undertaking implementation strategies with a particular focus on compliance with and enforcement of existing laws. Where the council identifies an inconsistency with the action agenda, the council shall offer support and assistance to the entity with the objective of remedying the inconsistency. The results of the conferences shall be included in the state of the Sound report required under section 19 of this act.

(3) In the event the council determines that an entity is in substantial noncompliance with the action agenda, it shall provide notice of this finding and supporting information to the entity. The council or executive director shall thereafter meet and confer with the entity to discuss the finding and, if appropriate, develop a corrective action plan. If no agreement is reached, the council shall hold a public meeting to present its findings and the proposed corrective action plan. If the entity is a state agency, the meeting shall include representatives of the governor's office and office of financial management. If the entity is a local government, the meeting shall be held in the jurisdiction and electoral representatives from the jurisdictions shall be invited to attend. If, after this process, the council finds that substantial noncompliance continues, the council shall issue written findings and document its conclusions. The council may recommend to the governor that the entity be ineligible for state financial assistance until the substantial noncompliance is remedied. Instances of noncompliance shall be included in the state of the Sound report required under section 19 of this act.

(4) The council shall provide a forum for addressing and resolving problems, conflicts, or a substantial lack of progress in a specific area that it has identified in the implementation of the action agenda, or that citizens or implementing entities bring to the council. The council may use conflict resolution mechanisms such as but not limited to, technical and financial assistance, facilitated discussions, and mediation to resolve the conflict. Where the parties and the

council are unable to resolve the conflict, and the conflict significantly impairs the implementation of the action agenda, the council shall provide its analysis of the conflict and recommendations resolution to the governor, the legislature, and to those entities with jurisdictional authority to resolve the conflict.

(5) When the council or an implementing entity identifies a statute, rule, ordinance or policy that conflicts with or is an impediment to the implementation of the action agenda, or identifies a deficiency in existing statutory authority to accomplish an element of the action agenda, the council shall review the matter with the implementing entities involved. The council shall evaluate the merits of the conflict, impediment, or deficiency, and make recommendations to the legislature, governor, agency, local government or other appropriate entity for addressing and resolving the conflict.

(6) The council may make recommendations to the governor and appropriate committees of the senate and house of representatives for local or state administrative or legislative actions to address barriers it has identified to successfully implementing the action agenda.

NEW SECTION. Sec. 18. LIMITATIONS ON AUTHORITY.

(1) The partnership shall not have regulatory authority nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(2) The action agenda may not create a legally enforceable duty to review or approve permits, or to adopt plans or regulations. The action agenda may not authorize the adoption of rules under chapter 34.05 RCW creating a legally enforceable duty applicable to the review or approval of permits or to the adoption of plans or regulations. No action of the partnership may alter the forest practices rules adopted pursuant to chapter 76.09 RCW, or any associated habitat conservation plan. Any changes in forest practices identified by the processes established in this chapter as necessary to fully recover the health of Puget Sound by 2020 may only be realized through the processes established in RCW 76.09.370 and other designated processes established in Title 76 RCW. Nothing in this subsection or subsection (1) of this section limits the accountability provisions of this chapter.

(3) Nothing in this chapter limits or alters the existing legal authority of local governments, nor does it create a legally enforceable duty upon local governments. When a local government proposes to take an action inconsistent with the action agenda, it shall inform the council and identify the reasons for taking the action. If a local government chooses to take an action inconsistent with the action agenda or chooses not to take action required by the action agenda, it will be subject to the accountability measures in this chapter which can be used at the discretion of the council.

NEW SECTION. Sec. 19. REPORTS. (1) By September 1st of each even-numbered year beginning in 2008, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) The water quality account, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

NEW SECTION. Sec. 20. BASIN-WIDE RESTORATION PROGRESS. By December 1, 2010, and subject to available funding, the Washington academy of sciences shall conduct an assessment of basin-wide restoration progress. The assessment shall include, but not be limited to, a determination of the extent to which implementation of the action agenda is making progress toward the action agenda goals, and a determination of whether the environmental indicators and benchmarks included in the action agenda accurately measure and reflect progress toward the action agenda goals.

NEW SECTION. Sec. 21. PERFORMANCE AUDIT. (1) The joint legislative audit and review committee shall conduct two performance audits of the partnership, with the first audit to be completed by December 1, 2011, and the second to be completed by December 1, 2016.

(2) The audit shall include but not be limited to:

(a) A determination of the extent to which funds expended by the partnership or provided in biennial budget acts expressly for implementing the action agenda have contributed toward meeting the scientific benchmarks and the recovery goals of the action agenda;

(b) A determination of the efficiency and effectiveness of the partnership's oversight of action agenda implementation, based upon the achievement of the objectives as measured by the established environmental indicators and benchmarks; and

(c) Any recommendations for improvements in the partnership's performance and structure, and to provide accountability for action agenda results by action entities.

(3) The partnership may use the audits as the basis for developing changes to the action agenda, and may submit any recommendations requiring legislative policy or budgetary action to the governor and to the appropriate committees of the senate and house of representatives.

Sec. 22. 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 shall ensure))~~ panel, with the approval of the council, shall guide the implementation and coordination of ~~((the))~~ a Puget Sound ~~((ambient))~~ assessment and monitoring program ~~((established in the Puget Sound management plan. The program shall include, at a minimum:~~

~~—(1) A research program, including but not limited to methods to provide current research information to managers and scientists, and to establish priorities based on the needs of the action team;~~

~~—(2) A monitoring program, including baselines, protocols, guidelines, and quantifiable performance measures. In consultation with state agencies, local and tribal governments, and other public and private interests, the action team shall develop and track quantifiable performance measures that can be used by the governor and the legislature to assess the effectiveness over time of programs and actions initiated under the plan to improve and protect Puget Sound water quality and biological resources. The performance measures shall be developed by June 30, 1997. The performance measures shall include, but not be limited to a methodology to track the progress of: Fish and wildlife habitat; sites with sediment contamination; wetlands; shellfish beds; and other key indicators of Puget Sound health. State agencies shall assist the action team in the development and tracking of these performance measures. The performance measures may be limited to a selected geographic area).~~

NEW SECTION. Sec. 23. PUGET SOUND RECOVERY ACCOUNT. The Puget Sound recovery account is created in the state treasury. To the account shall be deposited such funds as the legislature directs or appropriates to the account. Federal grants, gifts, or other financial assistance received by the Puget Sound partnership and other state agencies from nonstate sources for the specific purpose of recovering Puget Sound may be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the protection and recovery of Puget Sound.

Sec. 24. RCW 43.155.070 and 2001 c 131 s 5 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board

shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by section 25 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

~~((e))~~ (e) The cost of the project compared to the size of the local government and amount of loan money available;

~~((f))~~ (f) The number of communities served by or funding the project;

~~((g))~~ (g) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

~~((h))~~ (h) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

~~((i))~~ (i) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

~~((j))~~ (j) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works

projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 25. A new section is added to chapter 43.155 RCW to read as follows:

In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 26. 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) Except as otherwise conditioned by section 27 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(g) 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)) (h) The recommendations of the Puget Sound ((action team)) partnership created in section 3 of this act and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a

comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 27. A new section is added to chapter 70.146 RCW to read as follows:

When making grants or loans for water pollution control facilities under RCW 70.146.070, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 28. RCW 89.08.520 and 2001 c 227 s 3 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications(~~(, and the commission shall utilize)~~);

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental ~~((benefit[s] in its grant prioritization and selection process:))~~ benefits;

(ii) Whether, except as conditioned by section 29 of this act, the applicant is a Puget Sound partner, as defined in RCW 90.71.010; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts and to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

NEW SECTION. Sec. 29. A new section is added to chapter 89.08 RCW to read as follows:

When administering water quality and habitat protection grants under this chapter, the commission shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 30. RCW 70.105D.070 and 2005 c 488 s 926 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or

enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment. ~~((For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.))~~

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, shall, except as conditioned by section 31 of this act, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. ~~((During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus capital budget bill. During the 2005-2007 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.~~

~~(b))~~ (c) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit

public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) The department shall adopt rules for grant or loan issuance and performance.

~~((8) During the 2005-2007 fiscal biennium, the legislature may transfer from the state toxics control account to the water quality account such amounts as reflect the excess fund balance of the fund:))~~

NEW SECTION. Sec. 31. A new section is added to chapter 70.105D RCW to read as follows:

When administering funds under this chapter, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 32. RCW 79.105.150 and 2005 c 518 s 946 and 2005 c 155 s 121 are each reenacted and amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects.

(2) In providing grants for aquatic lands enhancement projects, the ~~(department)~~ interagency committee for outdoor recreation shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications(~~(and the department shall)~~);

(b) Utilize the statement of environmental benefits, consideration, except as provided in section 33 of this act, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and whether a project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, in its

prioritization and selection process(~~(The department shall also)~~); and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

~~((3) During the fiscal biennium ending June 30, 2007, the funds may be appropriated for boating safety, settlement costs for aquatic lands cleanup, and shellfish management, enforcement, and enhancement and assistance to local governments for septic system surveys and data bases:))~~ (5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 33. A new section is added to chapter 79.105 RCW to read as follows:

When administering funds under this chapter, the interagency committee for outdoor recreation shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 34. RCW 79A.15.040 and 2005 c 303 s 3 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 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 thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) 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 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 natural areas projects under subsection (1) (b) 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) 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 RCW 79.70.130 and 79.71.130.

(6)(a) Except as otherwise conditioned by section 35 of this act, the committee shall consider the following in determining distribution priority:

(i) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010; and

(ii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 35. A new section is added to chapter 79A.15 RCW to read as follows:

When administering funds under this chapter, the committee shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 36. RCW 77.85.130 and 2005 c 309 s 8, 2005 c 271 s 1, and 2005 c 257 s 3 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;

(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;

(vi) Are, except as provided in section 37 of this act, sponsored by an entity that is a Puget Sound partner, as defined in RCW 90.71.010; and

(vii) Are projects referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(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;

(iii) Will be implemented by a sponsor with a successful record of project implementation; ~~(and)~~

(iv) Involve members of the veterans conservation corps established in RCW 43.60A.150; and

(v) 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) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

(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.

(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.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency 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.

(8) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 37. A new section is added to chapter 77.85 RCW to read as follows:

When administering funds under this chapter, the board shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 38. RCW 90.50A.030 and 1996 c 37 s 4 are each amended to read as follows:

The department ~~((of ecology))~~ shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the water quality act of 1987 and as provided in RCW 90.50A.040:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later than twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

~~((Beginning with the biennium ending June 30, 1997;))~~ The department shall present a biennial progress report on the use of moneys from the account to the ~~((chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year))~~ appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

(5) The department may not use the moneys in the water pollution control revolving fund for grants.

Sec. 39. RCW 90.50A.040 and 1988 c 284 s 5 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department ~~((of ecology)).~~ In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and section 40 of this act, allocate funds for loans in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control act amendments of 1987 and estuary programs developed under section 320 of that act; ~~((and))~~

(7) Comply with provisions of the water quality act of 1987; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. Sec. 40. A new section is added to chapter 90.50A RCW to read as follows:

(1) In administering the fund, the department shall give priority consideration to:

(a) A public body that is a Puget Sound partner, as defined in RCW 90.71.010; and

(b) A project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2) When implementing this section, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are

not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

NEW SECTION. Sec. 41. TRANSFER OF POWERS, DUTIES, AND FUNCTIONS--REFERENCES TO CHAIR OF THE PUGET SOUND ACTION TEAM. (1) The Puget Sound action team is hereby abolished and its powers, duties, and functions are hereby transferred to the Puget Sound partnership as consistent with this chapter. All references to the chair or the Puget Sound action team in the Revised Code of Washington shall be construed to mean the executive director or the Puget Sound partnership.

(2)(a) All employees of the Puget Sound action team are transferred to the jurisdiction of the Puget Sound partnership.

(b) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Puget Sound action team shall be delivered to the custody of the Puget Sound partnership. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Puget Sound action team shall be made available to the Puget Sound partnership. All funds, credits, or other assets held by the Puget Sound action team shall be assigned to the Puget Sound partnership.

(c) Any appropriations made to the Puget Sound action team shall, on the effective date of this section, be transferred and credited to the Puget Sound partnership.

(d) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the Puget Sound action team shall be continued and acted upon by the Puget Sound partnership. All existing contracts and obligations shall remain in full force and shall be performed by the Puget Sound partnership.

(4) The transfer of the powers, duties, functions, and personnel of the Puget Sound action team shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

NEW SECTION. Sec. 42. CAPTIONS NOT LAW. Captions used in this chapter are not any part of the law.

Sec. 43. RCW 90.71.100 and 2001 c 273 s 3 are each amended to read as follows:

(1)(a) The ~~((action team))~~ department of health shall ~~((establish~~ ~~☞))~~ manage the established shellfish - on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The ~~((action team))~~ department of health shall provide funds to local health jurisdictions to be used as grants or loans to individuals for

improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan 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.

(c) The ~~((action team))~~ department of health shall work closely with local health jurisdictions and ~~((shall endeavor))~~ it shall be the goal of the department of health to attain geographic equity between Grays Harbor, Willapa Bay, and ~~((the))~~ Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In ~~((the))~~ Puget Sound, the ~~((action team))~~ department of health shall give first priority to areas that are:

(a) Identified as "areas of special concern" under WAC 246-272-01001; ~~((or))~~

(b) Included within a shellfish protection district under chapter 90.72 RCW; or

(c) Identified as a marine recovery area under chapter 70.118A RCW.

(3) In Grays Harbor and Pacific counties, the ~~((action team))~~ department of health shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The ~~((action team))~~ department of health and each participating local health jurisdiction shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) The ~~((action team))~~ department of health may recover the costs to administer this program not to exceed ten percent of the shellfish - on-site sewage grant program.

(6) ~~((For the 2001-2003 biennium, the action team may use up to fifty percent of the shellfish - on-site sewage grant program funds for grants to local health jurisdictions to establish areas of special concern under WAC 246-272-01001, or for operation and maintenance programs therein, where commercial and recreational uses are present))~~ As part of the grant program created in this section, the department of health may use any unexpended and unobligated funds from the oyster reserve land account, created in RCW 77.60.160, that are remaining after the implementation of subsection (1) of this section to fund research projects related to oyster reserves. If the department chooses to expend funds for oyster reserve research, it may recover additional costs to administer the research program up to ten percent of the funds expended for research. The department shall select research projects in consultation with the department of fish and wildlife and the appropriate reserve advisory committee created in RCW 77.60.150(2).

NEW SECTION. Sec. 44. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the Puget Sound partnership to the executive director, to one confidential secretary, and to all professional staff.

Sec. 45. RCW 43.17.010 and 2006 c 265 s 111 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, ~~((and))~~ (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 46. RCW 43.17.020 and 2006 c 265 s 112 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, ~~((and))~~ (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 47. RCW 42.17.2401 and 2006 c 265 s 113 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor

and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, ~~((personnel appeals board,))~~ board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 48. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the salmon recovery office as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

(3) Beginning January 1, 2008, the leadership council, created under chapter 90.71 RCW, shall serve as the regional salmon

recovery organization for Puget Sound salmon species, except for program known as the Hood Canal summer chum evolutionarily significant unit area, which the Hood Canal coordinating council shall continue to administer under chapter 90.88 RCW.

Sec. 49. RCW 90.88.005 and 2005 c 478 s 1 are each amended to read as follows:

(1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance in this state.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds that this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state agency known as the Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature also finds numerous public, private, and community organizations are working to provide public education and identify potential solutions. The legislature recognizes that, while some information and research is now available and some potential solutions have been identified, more research and analysis is needed to fully develop a program to address Hood Canal's low-dissolved oxygen concentrations.

(4) The legislature finds a need exists for the state to take action to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds establishing an aquatic rehabilitation zone for Hood Canal will serve as a statutory framework for future regulations and programs directed at recovery of this important aquatic resource.

(5) The legislature therefore intends to establish an aquatic rehabilitation zone for Hood Canal as the framework to address Hood Canal's low-dissolved oxygen concentrations. The legislature also intends to incorporate provisions in the new statutory chapter creating the designation as solutions are identified regarding this problem.

Sec. 50. RCW 90.88.020 and 2005 c 479 s 2 are each amended to read as follows:

(1) The development of a program for rehabilitation of Hood Canal is authorized in Jefferson, Kitsap, and Mason counties within the aquatic rehabilitation zone one.

(2) The Puget Sound ~~((action team))~~ partnership, created in section 3 of this act, is designated as the state lead agency for the rehabilitation program authorized in this section.

(3) The Hood Canal coordinating council is designated as the local management board for the rehabilitation program authorized in this section.

(4) The Puget Sound ~~((action team))~~ partnership and the Hood Canal coordinating council must each approve and must comanage projects under the rehabilitation program authorized in this section.

Sec. 51. RCW 90.88.030 and 2005 c 479 s 3 are each amended to read as follows:

(1) The Hood Canal coordinating council shall serve as the local management board for aquatic rehabilitation zone one. The local

management board shall coordinate local government efforts with respect to the program authorized according to RCW 90.88.020. In the Hood Canal area, the Hood Canal coordinating council also shall:

(a) Serve as the lead entity and the regional recovery organization for the purposes of chapter 77.85 RCW for Hood Canal summer chum; and

(b) Assist in coordinating activities under chapter 90.82 RCW.

(2) When developing and implementing the program authorized in RCW 90.88.020 and when establishing funding criteria according to subsection (7) of this section, the Puget Sound ~~((action team))~~ partnership, created in section 3 of this act, and the local management board shall solicit participation by federal, tribal, state, and local agencies and universities and nonprofit organizations with expertise in areas related to program activities. The local management board may include state and federal agency representatives, or additional persons, as nonvoting management board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

(3) The local management board and the Puget Sound ~~((action team))~~ partnership shall participate in the development of the program authorized under RCW 90.88.020.

(4) The local management board and its participating local and tribal governments shall assess concepts for a regional governance structure and shall submit a report regarding the findings and recommendations to the appropriate committees of the legislature by December 1, 2007.

(5) Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual efforts and activities for rehabilitation of Hood Canal. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(6) The local management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(7) The local management board and the Puget Sound ~~((action team))~~ partnership each may receive and disburse funding for projects, studies, and activities related to Hood Canal's low-dissolved oxygen concentrations. The Puget Sound ~~((action team))~~ partnership and the local management board shall jointly coordinate a process to prioritize projects, studies, and activities for which the Puget Sound ~~((action team))~~ partnership receives state funding specifically allocated for Hood Canal corrective actions to implement this section. The local management board and the Puget Sound ~~((action team))~~ partnership shall establish criteria for funding these projects, studies, and activities based upon their likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations. Final approval for projects under this section requires the consent of both the Puget Sound ~~((action team))~~ partnership and the local management board. Projects under this section must be comanaged by the Puget Sound ~~((action team))~~ partnership and the local management board. Nothing in this section prohibits any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in the rehabilitation of Hood Canal.

(8) The local management board may hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to local governments about potential regulations and the development of

programs and incentives upon request, pay all necessary expenses, and choose a fiduciary agent.

(9) The local management board shall report its progress on a quarterly basis to the legislative bodies of the participating counties and tribes and the participating state agencies. The local management board also shall submit an annual report describing its efforts and successes in implementing the program established according to RCW 90.88.020 to the appropriate committees of the legislature.

Sec. 52. RCW 90.88.901 and 2005 c 479 s 5 are each amended to read as follows:

Nothing in chapter 479, Laws of 2005 provides any regulatory authority to the Puget Sound (~~(action team)~~) partnership, created in section 3 of this act, or the Hood Canal coordinating council.

Sec. 53. RCW 90.88.902 and 2005 c 479 s 6 are each amended to read as follows:

The activities of the Puget Sound (~~(action team)~~) partnership, created in section 3 of this act, and the Hood Canal coordinating council required by chapter 479, Laws of 2005 are subject to the availability of amounts appropriated for this specific purpose.

Sec. 54. 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)~~) partnership, created in section 3 of this act. 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.

Sec. 55. 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)~~) 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. 56. 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)~~) 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)~~) partnership'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. 57. RCW 79.105.500 and 2005 c 155 s 158 are each amended to read as follows:

The legislature finds that the department provides, manages, and monitors aquatic land dredged material 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 army corps of engineers, and the United States environmental protection agency in cooperation with the Puget Sound ((~~action team~~)) 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. 58. 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~~)) 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. 59. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(f) The recommendations of the Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the

proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

Sec. 60. 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 action agenda developed by the Puget Sound ((water quality authority plan)) partnership under section 13 of this act to conduct any activity required under chapter 281, Laws of 1994.

Sec. 61. RCW 43.21J.030 and 1998 c 245 s 60 are each amended to read as follows:

(1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget Sound ((water quality authority)) partnership, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts.

Sec. 62. RCW 43.21J.040 and 1993 c 516 s 4 are each amended to read as follows:

(1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to rules adopted by the agency then known as the Puget Sound water quality authority ((rules adopted)) for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education.

Sec. 63. 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 are carried out. They shall consult with the Puget Sound ~~((water quality authority))~~ partnership, created in section 3 of this act, and ensure consistency with ((the authority's)) any of the Puget Sound partnership's water quality management plans.

(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.

NEW SECTION. Sec. 64. RCW 90.71.902 and 90.71.903 are each decodified.

NEW SECTION. Sec. 65. RCW 90.71.100 is recodified as a new section in chapter 70.118 RCW.

NEW SECTION. Sec. 66. The following acts or parts of acts are each repealed:

(13) RCW 90.71.005 (Findings) and 1998 c 246 s 13 & 1996 c 138 s 1;

(14) RCW 90.71.015 (Environmental excellence program agreements--Effect on chapter) and 1997 c 381 s 30;

(15) RCW 90.71.020 (Puget Sound action team) and 1998 c 246 s 14 & 1996 c 138 s 3;

(16) RCW 90.71.030 (Puget Sound council) and 1999 c 241 s 3 & 1996 c 138 s 4;

(17) RCW 90.71.040 (Chair of action team) and 1996 c 138 s 5;

(18) RCW 90.71.050 (Work plans) and 1998 c 246 s 15 & 1996 c 138 s 6;

(19) RCW 90.71.070 (Work plan implementation) and 1996 c 138 s 8;

(20) RCW 90.71.080 (Public participation) and 1996 c 138 s 9;

(21) RCW 90.71.900 (Short title--1996 c 138) and 1996 c 138 s 15; and

(22) RCW 90.71.901 (Captions not law) and 1996 c 138 s 14.

NEW SECTION. Sec. 67. Sections 1, 3 through 21, 23, 41, and 42 of this act are each added to chapter 90.71 RCW.

NEW SECTION. Sec. 68. 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. 69. 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, 2007."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Buri; Chandler; Dunn and Kretz.

Passed to Committee on Rules for second reading.

March 30, 2007

SSB 5412 Prime Sponsor, Senate Committee on Transportation: Clarifying goals, objectives, and responsibilities of certain transportation agencies. 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. The legislature finds and declares that the citizens of the state expect clear and concise goals, objectives, and responsibilities regarding the operation of the statewide transportation system. Furthermore, the state's citizens expect that the state periodically receive clear and streamlined information that measures whether the goals and objectives are being satisfied. Therefore, it is the intent of the legislature that this act serve to clarify existing goals, objectives, and responsibilities related to the operation of an efficient statewide transportation system.

Sec. 2. RCW 47.01.011 and 1977 ex.s. c 151 s 1 are each amended to read as follows:

The legislature hereby recognizes the following imperative needs within the state: To create a statewide transportation development plan which identifies present status and sets goals for

the future; to coordinate transportation modes; to promote and protect land use programs required in local, state, and federal law; to coordinate transportation with the economic development of the state; to supply a broad framework in which regional, metropolitan, and local transportation needs can be related; to facilitate the supply of federal and state aid to those areas which will most benefit the state as a whole; to provide for public involvement in the transportation planning and development process; to administer programs within the jurisdiction of this title relating to the safety of the state's transportation systems; and to coordinate and implement national transportation policy with the state transportation planning program.

The legislature finds and declares that placing all elements of transportation in a single department is fully consistent with and shall in no way impair the use of moneys in the motor vehicle fund exclusively for highway purposes.

Through this chapter, a unified department of transportation is created. To the jurisdiction of this department will be transferred the present powers, duties, and functions of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency. The powers, duties, and functions of the department of transportation must be performed in a manner consistent with the policy goals set forth in RCW 47.01.012 (as recodified by this act).

Sec. 3. RCW 47.01.012 and 2002 c 5 s 101 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals ((shall consist of, but not be limited to, the following)) established under this section are deemed consistent with the benchmark categories(;) adopted by the state's blue ribbon commission on transportation on November 30, 2000. ((In addition to improving safety;)) Public investments in transportation ((shall) should support achievement of these ((and other priority)) policy goals:

((No interstate highways, state routes, and local arterials shall be in poor condition; no bridges shall be structurally deficient, and safety retrofits shall be performed on those state bridges at the highest seismic risk levels; traffic congestion on urban state highways shall be significantly reduced and be no worse than the national mean; delay per driver shall be significantly reduced and no worse than the national mean; per capita vehicle miles traveled shall be maintained at 2000 levels; the nonauto share of commuter trips shall be increased in urban areas; administrative costs as a percentage of transportation spending shall achieve the most efficient quartile nationally; and the state's public transit agencies shall achieve the median cost per vehicle revenue hour of peer transit agencies, adjusting for the regional cost-of-living;))

(a) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(b) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(c) Mobility: To improve the predictable movement of goods and people throughout Washington state;

(d) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(e) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals ((shall) are intended to be the basis for ((establishment of)) establishing detailed and measurable objectives and related performance ((benchmarks)) measures.

(4) It is the intent of the legislature that the ((transportation commission)) office of financial management establish objectives and performance measures for the department of transportation and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels((, and the transportation commission should work with appropriate government entities to accomplish this)) progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) This section does not create a private right of action.

Sec. 4. RCW 47.01.071 and 2006 c 334 s 3 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate, the policies shall provide for the use of integrated, intermodal transportation systems ((to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy)). The policies must be aligned with the goals established in RCW 47.01.012 (as recodified by this act). To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) ((Propose a transportation policy for the state; —((d)) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature; and

((e) To)) (d) Integrate the statewide transportation plan with the needs of the elderly and ((handicapped)) persons with disabilities, and ((to)) coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit

the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) By December 2010, to prepare a comprehensive and balanced statewide transportation plan ((which shall be)) consistent with the state's growth management goals and based on the transportation policy ((adopted by the governor and the legislature;)) goals provided under RCW 47.01.012 (as recodified by this act) and applicable state and federal laws. The plan must reflect the priorities of government developed by the office of financial management and address regional needs, including multimodal transportation planning. The plan must, at a minimum: (a) Establish a vision for the development of the statewide transportation system; (b) identify significant statewide transportation policy issues; and (c) recommend statewide transportation policies and strategies to the legislature to fulfill the requirements of subsection (1) of this section. The plan must be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. Every four years, the plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation ((prior to each regular session of the legislature during an even-numbered year thereafter. The plan shall be subject to the approval of the legislature in the biennial transportation budget act)).

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(5) By December 2007, the office of financial management shall submit a baseline report on the progress toward attaining the policy goals under RCW 47.01.012 (as recodified by this act) in the 2005-2007 fiscal biennium. By October 1, 2008, beginning with the development of the 2009-2011 biennial transportation budget, and by October 1st biennially thereafter, the office of financial management shall submit to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.01.012 (as recodified by this act), as measured by the objectives and performance measures established by the office of financial management under RCW 47.01.012 (as recodified by this act);

(6) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

((6)) (7) To adopt such rules as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

((7)) (8) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

((8)) (9) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; and

((9)) (10) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

Sec. 5. RCW 47.01.075 and 2006 c 334 s 4 are each amended to read as follows:

(1) The transportation commission shall provide a public forum for the development of transportation policy in Washington state to include coordination with regional transportation planning organizations, transportation stakeholders, counties, cities, and citizens. ~~((It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen and professional involvement in all transportation policy formulation and other matters related to the powers and duties of the department. It may further hold hearings and explore ways to improve the mobility of the citizenry.))~~ At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues. The commission shall consider the input gathered at the forums as it establishes the statewide transportation plan under RCW 47.01.071(4).

(2) ~~((Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the statewide multimodal transportation progress report and propose to the office of financial management transportation priorities for the ensuing biennium. The report must:~~

~~— (a) Consider the citizen input gathered at the forums;~~

~~— (b) Be developed with the assistance of state transportation-related agencies and organizations;~~

~~— (c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, key transportation stakeholders, and the office of financial management;~~

~~— (d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;~~

~~— (e) Be submitted by the commission to the governor and the legislature by October 1st of each even-numbered year for consideration by the governor.~~

~~— (3)) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.~~

((4)) (3) In order to promote a better transportation system, the commission ((shall)) may offer policy guidance and make recommendations to the governor and the legislature in key issue areas, including but not limited to:

(a) Transportation finance;

(b) Preserving, maintaining, and operating the statewide transportation system;

(c) Transportation infrastructure needs;

(d) Promoting best practices for adoption and use by transportation-related agencies and programs;

(e) Transportation efficiencies that will improve service delivery and/or coordination;

(f) Improved planning and coordination among transportation agencies and providers; and

(g) Use of intelligent transportation systems and other technology-based solutions((; and

~~— (h) Reporting of performance against goals, targets, and benchmarks)).~~

NEW SECTION. Sec. 6. A new section is added to chapter 47.01 RCW to read as follows:

To support achievement of the policy goals described in RCW 47.01.012, the department shall:

(1) Maintain an inventory of the condition of structures and corridors, and maintain a list of those structures and corridors in most urgent need of retrofit or rehabilitation;

(2) Develop long-term financing plans that sustainably support ongoing maintenance and preservation of the transportation infrastructure;

(3) Balance system safety and convenience through all phases of a project to accommodate all users of the transportation system, including vehicles, freight, pedestrians, bicyclists, and transit users, to safely, reliably, and efficiently provide mobility to people and goods;

(4) Develop strategies to gradually reduce the per capita vehicle miles traveled based on consideration of a range of reduction methods including, but not limited to: Consideration of enhancements to and expansion of public transportation options; transportation demand management; bicycle and pedestrian infrastructure; vanpool and carpool programs; incentive programs; and innovative design approaches;

(5) Utilize efficiency tools, including high-occupancy vehicle and high-occupancy toll lanes, corridor-specific and systemwide pricing strategies, active traffic management, commute trip reduction, and other demand management tools;

(6) Promote integrated multimodal planning, incorporating a variety of modal approaches; and

(7) Select engineers and architects to design environmentally sustainable, context-sensitive transportation systems that are integrated into the communities they serve.

Sec. 7. RCW 47.05.030 and 2006 c 334 s 45 are each amended to read as follows:

(1) The ~~((transportation commission))~~ office of financial management shall ~~((develop))~~ propose a comprehensive ten-year investment program ~~((specifying program objectives and performance measures))~~ for the preservation and improvement programs defined in this section, ~~consistent with the policy goals described under RCW 47.01.012 (as recodified by this act).~~ The ~~((adopted))~~ proposed ten-year investment program must be forwarded as a recommendation ~~((to))~~ by the ~~((governor and))~~ office of financial management to the legislature, and ~~((is subject to the approval of the legislature in the biennial transportation budget act. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. The investment program))~~ must be based upon the needs identified in the ~~((state-owned highway component of the))~~ statewide ~~((comprehensive))~~ transportation plan established under RCW 47.01.071(4).

~~((+))~~ (2) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. ~~((The preservation program must require use of the most cost-effective pavement surfaces, considering:~~

~~— (a) Life-cycle cost analysis;~~

~~— (b) Traffic volume;~~

~~— (c) Subgrade soil conditions;~~

~~— (d) Environmental and weather conditions;~~

~~— (e) Materials available; and~~

~~— (f) Construction factors.~~

~~The comprehensive ten-year investment program for preservation must identify projects for two years and an investment plan for the remaining eight years.~~

~~((2))~~ (3) The improvement program consists of investments needed to address identified deficiencies on the state highway system to ~~((increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ten-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ten-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate))~~ meet the goals established in RCW 47.01.012 (as recodified by this act).

Sec. 8. RCW 47.05.035 and 2006 c 334 s 46 are each amended to read as follows:

(1) The department shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

~~((3))~~ In developing program objectives and performance measures, the department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

~~((4))~~ The department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

~~— (a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;~~

~~— (b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;~~

~~— (c) The continuity of future transportation development with those improvements previously programmed; and~~

~~— (d) The availability of dedicated funds for a specific type of work;~~

~~((5))~~ The department shall consider the findings in this section in the development of the ten-year investment program.)

Sec. 9. RCW 47.06.020 and 1993 c 446 s 2 are each amended to read as follows:

The specific role of the department in transportation planning ~~((shall))~~ must be, consistent with the policy goals described under RCW 47.01.012 (as recodified by this act): (1) Ongoing coordination and development of statewide transportation policies that guide all

Washington transportation providers; (2) ongoing development of a statewide multimodal transportation plan that includes both state-owned and state-interest facilities and services; (3) coordinating the state high-capacity transportation planning and regional transportation planning programs; ~~((and))~~ (4) conducting special transportation planning studies that impact state transportation facilities or relate to transportation facilities and services of statewide significance; and (5) assisting the transportation commission in the development of the statewide transportation plan required under RCW 47.01.071(4). Specific requirements for each of these state transportation planning components are described in this chapter.

Sec. 10. RCW 47.06.050 and 2002 c 5 s 413 are each amended to read as follows:

The state-owned facilities component of the statewide multimodal transportation plan shall consist of:

(1) The state highway system plan, which identifies program and financing needs and recommends specific and financially realistic improvements to preserve the structural integrity of the state highway system, ensure acceptable operating conditions, and provide for enhanced access to scenic, recreational, and cultural resources. The state highway system plan shall contain the following elements:

(a) A system preservation element, which shall establish structural preservation objectives for the state highway system including bridges, identify current and future structural deficiencies based upon analysis of current conditions and projected future deterioration, and recommend program funding levels and specific actions necessary to preserve the structural integrity of the state highway system consistent with adopted objectives. Lowest life cycle cost methodologies must be used in developing a pavement management system. This element shall serve as the basis for the preservation component of the six-year highway program and the two-year biennial budget request to the legislature;

(b) A highway maintenance element, establishing service levels for highway maintenance on state-owned highways ~~((that meet benchmarks established by the transportation commission))~~. The highway maintenance element must include an estimate of costs for achieving those service levels over twenty years. This element will serve as the basis for the maintenance component of the six-year highway program and the two-year biennial budget request to the legislature;

(c) A capacity and operational improvement element, which shall establish operational objectives, including safety considerations, for moving people and goods on the state highway system, identify current and future capacity, operational, and safety deficiencies, and recommend program funding levels and specific improvements and strategies necessary to achieve the operational objectives. In developing capacity and operational improvement plans the department shall first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion. Strategies to enhance the operational efficiencies include but are not limited to access management, transportation system management, demand management, and high-occupancy vehicle facilities. The capacity and operational improvement element must conform to the state implementation plan for air quality and be consistent with regional transportation plans adopted under chapter 47.80 RCW, and shall serve as the basis for the capacity and operational improvement portions of the six-year highway program and the two-year biennial budget request to the legislature;

(d) A scenic and recreational highways element, which shall identify and recommend designation of scenic and recreational highways, provide for enhanced access to scenic, recreational, and

cultural resources associated with designated routes, and recommend a variety of management strategies to protect, preserve, and enhance these resources. The department, affected counties, cities, and towns, regional transportation planning organizations, and other state or federal agencies shall jointly develop this element;

(e) A paths and trails element, which shall identify the needs of nonmotorized transportation modes on the state transportation systems and provide the basis for the investment of state transportation funds in paths and trails, including funding provided under chapter 47.30 RCW.

(2) The state ferry system plan, which shall guide capital and operating investments in the state ferry system. The plan shall establish service objectives for state ferry routes, forecast travel demand for the various markets served in the system, develop strategies for ferry system investment that consider regional and statewide vehicle and passenger needs, support local land use plans, and assure that ferry services are fully integrated with other transportation services. The plan must provide for maintenance of capital assets. The plan must also provide for preservation of capital assets based on lowest life cycle cost methodologies. The plan shall assess the role of private ferries operating under the authority of the utilities and transportation commission and shall coordinate ferry system capital and operational plans with these private operations. The ferry system plan must be consistent with the regional transportation plans for areas served by the state ferry system, and shall be developed in conjunction with the ferry advisory committees.

Sec. 11. RCW 47.06.140 and 1998 c 171 s 7 are each amended to read as follows:

The legislature declares the following transportation facilities and services to be of statewide significance: Highways of statewide significance as designated by the legislature under chapter 47.05 RCW, the interstate highway system, interregional state principal arterials including ferry connections that serve statewide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of statewide significance in the statewide multimodal transportation plan. Improvements to facilities and services of statewide significance identified in the statewide multimodal transportation plan, or to highways of statewide significance designated by the legislature under chapter 47.05 RCW, are essential state public facilities under RCW 36.70A.200.

The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of statewide significance. Although the department shall consult with local governments when setting level of service standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of statewide significance. In establishing level of service standards for state highways and state ferry routes of statewide significance, the department shall consider the necessary balance between providing for the free interjurisdictional movement

of people and goods and the needs of local communities using these facilities.

Sec. 12. RCW 35.95A.120 and 2003 c 147 s 14 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the city transportation authority may be dissolved by a vote of the people residing within the boundaries of the authority if the authority is faced with significant financial problems. However, the authority may covenant with holders of its bonds that it may not be dissolved and shall continue to exist solely for the purpose of continuing to levy and collect any taxes or assessments levied by it and pledged to the repayment of debt and to take other actions, including the appointment of a trustee, as necessary to allow it to repay any remaining debt. No such debt may be incurred by the authority on a project until thirty days after a final environmental impact statement on that project has been issued as required by chapter 43.21C RCW. The amount of the authority's initial bond issue is limited to the amount of the project costs in the subsequent two years as documented by a certified engineer or by submitted bids, plus any reimbursable capital expenses already incurred at the time of the bond issue. The authority may size the first bond issue consistent with the internal revenue service five-year spend down schedule if an independent financial advisor recommends such an approach is financially advisable. Any referendum petition to dissolve the city transportation authority must be filed with the city council and contain provisions for dissolution of the authority. Within seven days, the city prosecutor must review the validity of the petition and submit its report to the petitioner and city council. If the petitioner's claims are deemed valid by the city prosecutor, within ten days of the petitioner's filing, the city council will confer with the petitioner concerning the form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title must be posed as a question and an affirmative vote on the measure results in authority retention and a negative vote on the measure results in the authority's dissolution. The petitioner will be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner has ninety days in which to secure on petition forms, the signatures of not less than fifteen percent of the registered voters in the authority area and to file the signed petitions with the filing officer. Each petition form must contain the ballot title and the full text of the measure to be referred. The filing officer will verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the filing officer shall submit the initiative to the authority area voters at a general or special election held on one of the dates provided in RCW ~~((29.13.010))~~ 29A.04.321 as determined by the city council, which election will not take place later than one hundred twenty days after the signed petition has been filed with the filing officer.

(2) A city transportation authority is dissolved and terminated if all of the following events occur before or after the effective date of this section:

(a) A majority of the qualified electors voting at a regular or special election determine that new public monorail transportation facilities must not be built;

(b) The governing body of the authority adopts a resolution and publishes a notice of the proposed dissolution at least once every week for three consecutive weeks in a newspaper of general circulation published in the authority area. The resolution and notice must:

(i) Describe information that must be included in a notice of claim against the authority including, but not limited to, any claims for refunds of special motor vehicle excise tax levied under RCW 35.95A.080 and collected by or on behalf of the authority;

(ii) Provide a mailing address where a notice of claim may be sent;

(iii) State the deadline, which must be at least ninety days from the date of the third publication, by which the authority must receive a notice of claim; and

(iv) State that a claim will be barred if a notice of claim is not received by the deadline;

(c) The authority resolves all claims timely made under (b) of this subsection; and

(d) The governing body adopts a resolution (i) finding that the conditions of (a) through (c) of this subsection have been met and (ii) dissolving and terminating the authority.

(3) A claim against a city transportation authority is barred if (a) a claimant does not deliver a notice of claim to the authority by the deadline stated in subsection (2)(b)(iii) of this section or (b) a claimant whose claim was rejected by the authority does not commence a proceeding to enforce the claim within sixty days from receipt of the rejection notice. For purposes of this subsection, "claim" includes, but is not limited to, any right to payment, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or the right to an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, including, but not limited to, any claim for a refund of special motor vehicle excise tax levied under RCW 35.95A.080 and collected by or on behalf of the authority.

(4) The governing body of the authority may transfer any net assets to one or more other political subdivisions with instructions as to their use or disposition. The governing body shall authorize this transfer in the resolution that dissolves and terminates the authority under subsection (2)(d) of this section.

(5) Upon the dissolution and termination of the authority, the former officers, directors, employees, and agents of the authority shall be immune from personal liability in connection with any claims brought against them arising from or relating to their service to the authority, and any claim brought against any of them is barred.

(6) Upon satisfaction of the conditions set forth in subsection (2)(a) and (b) of this section, the terms of all members of the governing body of the city transportation authority, whether elected or appointed, who are serving as of the date of the adoption of the resolution described in subsection (2)(b) of this section, shall be extended, and incumbent governing body members shall remain in office until dissolution of the authority, notwithstanding any provision of any law to the contrary.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(23) RCW 47.01.370 (Review of performance and outcome measures of transportation-related agencies--Definition) and 2006 c 334 s 44;

(24) RCW 47.05.051 (Ten-year comprehensive investment program--Priority selection criteria--Improvement program criteria) and 2006 c 334 s 47, 2005 c 319 s 11, 2002 c 189 s 3, 2002 c 5 s 406, 1998 c 175 s 12, 1993 c 490 s 5, 1987 c 179 s 5, 1979 ex.s. c 122 s 5, & 1975 1st ex.s. c 143 s 4; and

(25) RCW 47.06.030 (Transportation policy plan) and 1997 c 369 s 8 and 1993 c 446 s 3.

NEW SECTION. Sec. 14. RCW 47.01.012 is recodified as a section in chapter 47.04 RCW."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

April 2, 2007

SB 5421 Prime Sponsor, Senator Fraser: Concerning environmental covenants. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5447 Prime Sponsor, Senate Committee on Natural Resources, Ocean & Recreation: Regarding the coastal Dungeness crab fishery. 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 the coastal Dungeness crab fishery is one of the most valuable commercial fisheries in Washington. For example, the 2004-05 season resulted in landings of twenty-one million pounds with an estimated ex-vessel value of over thirty million dollars. The fishery represents a vital economic foundation for many coastal communities.

Since 1994, the coastal Dungeness crab fishery has faced significant pressure and has undergone many regulatory changes stemming from issues relating to the sustainability of the resource, the safety and sustainability of the fleet, interstate and federal jurisdiction questions, as well as allocation issues.

In order to further promote the sustainability of the coastal Dungeness crab resource, the coastal crab fleet, and coastal communities, the legislature intends for the department of fish and wildlife to develop a proposed coastal Dungeness buyback program

that would be implemented in cooperation with the federal government upon future legislative direction.

NEW SECTION. Sec. 2. (1) The department shall develop a detailed proposed Dungeness crab-coastal fishery buyback program. The proposed program must provide for the purchase and permanent retirement of Dungeness crab-coastal fishery licenses. The department shall design this element of the proposed program with the goal of purchasing between eighty and one hundred Dungeness crab-coastal fishery licenses.

(2) In addition to license purchase and retirement, the proposed program may provide for the purchase or retirement of vessels designated on Dungeness crab-coastal fishery licenses.

(3) The proposed program must explore funding alternatives that involve federal funding, state funding, funding provided by Dungeness crab-coastal license holders, low-interest loans to license holders, and combinations thereof.

(4)(a) The department must include in the proposed program those elements necessary for the administration of the buyback, including the mechanisms by which Dungeness crab-coastal license holders may apply to participate in the program if it is authorized and by which the department will select licenses or vessels for purchase from among the applicants.

(b) The proposed program must include and clearly set forth any conditions that will be placed on Dungeness crab-coastal license holders participating in the program.

(5) The proposed program must be designed to have a neutral impact on Dungeness crab harvests in the state and federal waters off the coasts of Oregon and California.

(6) The proposed program must assume that participation by Dungeness crab-coastal license holders in the program would be entirely voluntary.

(7) The department shall consult with Dungeness crab-coastal license holders when designing the proposal.

(8) To assist the department in the development of the proposal, the department may contract with persons not employed by the state.

(9) By December 1, 2007, the department shall provide a report detailing the program proposal to the appropriate policy and fiscal committees of the senate and house of representatives.

(10) The proposed program developed under this section is not authorized to be implemented, and state funds are not authorized to be expended, without further specific legislative authorization.

(11) This section expires December 31, 2007."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

April 2, 2007

2SSB 5470 Prime Sponsor, Senate Committee on Ways & Means: Revising provisions concerning

dissolution proceedings. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by the Committee on Judiciary. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5475 Prime Sponsor, Senate Committee on Water, Energy & Telecommunications: Modifying provisions affecting underground storage tanks. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 30, 2007

SSB 5483 Prime Sponsor, Senate Committee on Transportation: Retaining the distribution of city hardship assistance program funds to cities and towns for street maintenance. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5503 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Licensing persons who offer athletic training services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the purpose of this chapter to provide for the licensure of persons offering athletic training services to the public and to ensure standards of competence and professional conduct on the part of athletic trainers.

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

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in section 8 of this act; and

(v) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with section 8 of this act.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of acupuncture as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

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

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage practitioner, acupuncturist, occupational therapist, or podiatric physician and surgeon.

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

NEW SECTION. Sec. 3. (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish all license, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. All fees collected under this section must be credited to the health professions account as required under RCW 43.70.320;

(e) Develop and administer, or approve, or both, examinations to applicants for a license under this chapter;

(f) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. However, denial of licenses based on unprofessional conduct or impaired practice is governed by the uniform disciplinary act, chapter 18.130 RCW;

(g) In consultation with the committee, approve examinations prepared or administered by private testing agencies or organizations for use by an applicant in meeting the licensing requirements under section 7 of this act;

(h) Determine which states have credentialing requirements substantially equivalent to those of this state, and issue licenses to individuals credentialed in those states that have successfully fulfilled the requirements of section 9 of this act;

(i) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(j) Maintain the official department record of all applicants and licensees; and

(k) Establish requirements and procedures for an inactive license.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 4. (1) The athletic training advisory committee is formed to further the purposes of this chapter.

(2) The committee consists of five members. Four members of the committee must be athletic trainers licensed under this chapter and residing in this state, must have not less than five years' experience in the practice of athletic training, and must be actively engaged in practice within two years of appointment. The fifth

member must be appointed from the public at large, and have an interest in the rights of consumers of health services.

(3) The committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The committee may be requested by the secretary to approve an examination required for licensure under this chapter.

(5) The committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for appropriateness of athletic training care.

(6) The committee must meet during the year as necessary to provide advice to the secretary. The committee may elect a chair and a vice-chair. A majority of the members currently serving constitute a quorum.

(7) Each member of the committee must be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committee must be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of the committee.

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

NEW SECTION. Sec. 5. It is unlawful for any person to practice or offer to practice as an athletic trainer, or to represent themselves or other persons to be legally able to provide services as an athletic trainer, unless the person is licensed under the provisions of this chapter.

NEW SECTION. Sec. 6. Nothing in this chapter may prohibit, restrict, or require licensure of:

(1) Any person licensed, certified, or registered in this state and performing services within the authorized scope of practice;

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

(3) Any person pursuing a supervised course of study in an accredited athletic training educational program, if the person is designated by a title that clearly indicates a student or trainee status;

(4) An athletic trainer from another state for purposes of continuing education, consulting, or performing athletic training services while accompanying his or her group, individual, or representatives into Washington state on a temporary basis for no more than ninety days in a calendar year;

(5) Any elementary, secondary, or postsecondary school teacher, educator, coach, or authorized volunteer who does not represent themselves to the public as an athletic trainer; or

(6) A personal trainer employed by an athletic club or fitness center.

NEW SECTION. Sec. 7. An applicant for an athletic trainer license must:

(1) Have received a bachelor's or advanced degree from an accredited four-year college or university that meets the academic standards of athletic training, accepted by the secretary, as advised by the committee;

(2) Have successfully completed an examination administered or approved by the secretary, in consultation with the committee; and

(3) Submit an application on forms prescribed by the secretary and pay the licensure fee required under this chapter.

NEW SECTION. Sec. 8. (1) Except as necessary to provide emergency care of athletic injuries, an athletic trainer shall not provide treatment, rehabilitation, or reconditioning services to any person except as specified in guidelines established with a licensed health care provider who is licensed to perform the services provided in the guidelines.

(2) If there is no improvement in an athlete who has sustained an athletic injury within fifteen days of initiation of treatment, rehabilitation, or reconditioning, the athletic trainer must refer the athlete to a licensed health care provider that is appropriately licensed to assist the athlete.

(3) If an athletic injury requires treatment, rehabilitation, or reconditioning for more than forty-five days, the athletic trainer must consult with, or refer the athlete to a licensed health care provider. The athletic trainer shall document the action taken.

NEW SECTION. Sec. 9. Each applicant and license holder must comply with administrative procedures, administrative requirements, and fees under RCW 43.70.250 and 43.70.280. The secretary shall furnish a license to any person who applies and who has qualified under the provisions of this chapter.

NEW SECTION. Sec. 10. Nothing in this chapter restricts the ability of athletic trainers to work in the practice setting of his or her choice.

NEW SECTION. Sec. 11. Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person licensed as an athletic trainer under this chapter.

Sec. 12. RCW 48.43.045 and 2006 c 25 s 7 are each amended to read as follows:

(1) Every health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 1996, shall:

((+)) (a) Permit every category of health care provider to provide health services or care for conditions included in the basic health plan services to the extent that:

((+)) (i) The provision of such health services or care is within the health care providers' permitted scope of practice; and

((+)) (ii) The providers agree to abide by standards related to:

((+)) (A) Provision, utilization review, and cost containment of health services;

((+)) (B) Management and administrative procedures; and

((+)) (C) Provision of cost-effective and clinically efficacious health services.

((+)) (b) Annually report the names and addresses of all officers, directors, or trustees of the health carrier during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals, unless substantially similar information is filed with the commissioner or the national association of insurance commissioners. This requirement does not apply to a foreign or alien insurer regulated under chapter 48.20 or 48.21 RCW that files a supplemental compensation exhibit in its annual statement as required by law.

(2) The requirements of subsection (1)(a) of this section do not apply to a licensed health care profession regulated under Title 18 RCW when the licensing statute for the profession states that such requirements do not apply.

Sec. 13. RCW 18.130.040 and 2004 c 38 s 2 are each amended to read as follows:

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

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

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

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

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

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

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

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

(x) Persons registered under chapter 18.19 RCW;

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

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

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

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

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

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

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

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

(xix) Denturists licensed under chapter 18.30 RCW;

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

(xxi) Surgical technologists registered under chapter 18.215 RCW; ~~(and)~~

(xxii) Recreational therapists; and

(xxiii) Athletic trainers licensed under chapter 18.-- RCW (sections 1 through 11 of this act).

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

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

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

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

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

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

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

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

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

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

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

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

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

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

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

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

NEW SECTION. Sec. 14. 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. 15. Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 16. This act takes effect July 1, 2008.

NEW SECTION. Sec. 17. The secretary of health may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 18. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Cody; Dunn; McIntire and Morrell.

Passed to Committee on Rules for second reading.

April 2, 2007

ESB 5508 Prime Sponsor, Senator Kilmer: Providing for economic development project permitting. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that permit programs have been legislatively established to protect the health, welfare, economy, and environment of Washington's citizens and to provide a fair, competitive opportunity for business innovation and consumer confidence. The legislature also finds that uncertainty in government processes to permit an activity by a citizen of Washington state is undesirable and erodes confidence in government. The legislature further finds that in the case of projects that would further economic development in the state, information about the permitting process is critical for an applicant's planning and financial assessment of the proposed project. The legislature also finds that applicants have a responsibility to provide complete and accurate information.

(2) The legislature recommends that applicants be provided with the following information when applying for a development permit from a city, county, or state agency:

(a) The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;

(b) The minimum amount of information required for an agency to make a decision on a permit;

(c) When an agency considers an application complete for processing;

(d) The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and

(e) The reasons for a denial of a permit in writing.

(3) In providing this information to applicants, an agency should base estimates on the best information available about the permitting program and prior applications for similar permits, as well as on the information provided by the applicant. New information provided by the applicant subsequent to the agency estimates may change the information provided by an agency per subsection (2) of this section. Project modifications by an applicant may result in more time, more information, or higher fees being required for permit processing.

(4) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020.

(5) City, county, and state agencies issuing development permits are encouraged to track the progress in providing the information to applicants per subsection (2) of this section by preparing an annual report of its performance for the preceding fiscal year. The report should be posted on its web site made available and provided to the appropriate standing committees of the senate and house of representatives.

Sec. 2. RCW 43.155.070 and 2001 c 131 s 5 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) Whether the applicant has a good record of providing information to those applying for development permits consistent with section 1(2) of this act;

(d) The cost of the project compared to the size of the local government and amount of loan money available;

~~((f))~~ (e) The number of communities served by or funding the project;

~~((f))~~ (f) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

~~((f))~~ (g) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

~~((f))~~ (h) The relative benefit of the project to the community, considering the present level of economic activity in the community

and the existing local capacity to increase local economic activity in communities that have low economic growth; and

~~((f))~~ (i) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1 of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

Sec. 3. RCW 43.160.060 and 2004 c 252 s 3 are each amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, at least ten percent of all financial assistance provided by the board in any biennium shall consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(d) For a project the primary purpose of which is to facilitate or promote gambling.

(2) The board shall only provide financial assistance:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made.

(3) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located; ~~((and))~~

(b) The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project; and

(c) Whether the applicant has a good record of providing information to those applying for development permits consistent with section 1(2) of this act.

(4) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 4. RCW 39.102.040 and 2006 c 181 s 202 are each amended to read as follows:

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

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

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

(c) Complete the process in RCW 39.102.080;

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

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

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

(3) As a condition to imposing a sales and use tax under RCW 82.14.475, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under RCW 82.14.475, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under RCW 82.14.475, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in RCW 39.102.090. A notice of approval to use local infrastructure financing shall contain a project award that represents the maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4) Sponsoring local governments, and any cosponsoring local governments, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve qualified projects, up to the annual state contribution limit. Except as provided in RCW 39.102.050, approvals shall be based on the following criteria:

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

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

(c) Whether the applicant has a good record of providing information to those applying for development permits consistent with section 1(2) of this act;

(d) Achieving an overall distribution of projects statewide that reflect geographic diversity;

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

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

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

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

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

Sec. 5. RCW 43.160.230 and 2005 c 425 s 2 are each amended to read as follows:

(1) The job development fund program is created to provide grants for public infrastructure projects that will stimulate job creation or assist in job retention. The program is to be administered by the board. The board shall establish a competitive process to request and prioritize proposals and make grant awards.

(2) For the purposes of chapter 425, Laws of 2005, "public infrastructure projects" has the same meaning as "public facilities" as defined in RCW 43.160.020(11).

(3) The board shall conduct a statewide request for project applications. The board shall apply the following criteria for evaluation and ranking of applications:

(a) The relative benefits provided to the community by the jobs the project would create, including, but not limited to: (i) The total number of jobs; (ii) the total number of full-time, family wage jobs; (iii) the unemployment rate in the area; and (iv) the increase in employment in comparison to total community population;

(b) The present level of economic activity in the community and the existing local financial capacity to increase economic activity in the community;

(c) Whether the applicant has a good record of providing information to those applying for development permits consistent with section 1(2) of this act;

~~(d)~~ The rate of return of the state's investment, that includes the expected increase in state and local tax revenues associated with the project;

~~((d))~~ (e) The lack of another timely source of funding available to finance the project which would likely prevent the proposed community or economic development, absent the financing available under chapter 425, Laws of 2005;

~~((e))~~ (f) The ability of the project to improve the viability of existing business entities in the project area;

~~((f))~~ (g) Whether or not the project is a partnership of multiple jurisdictions;

~~((g))~~ (h) Demonstration that the requested assistance will directly stimulate community and economic development by facilitating the creation of new jobs or the retention of existing jobs; and

~~((h))~~ (i) The availability of existing assets that applicants may apply to projects.

(4) Job development fund program grants may only be awarded to those applicants that have entered into or expect to enter into a contract with a private developer relating to private investment that

will result in the creation or retention of jobs upon completion of the project. Job development fund program grants shall not be provided for any project where:

(a) The funds will not be used within the jurisdiction or jurisdictions of the applicants; or

(b) Evidence exists that the project would result in a development or expansion that would displace existing jobs in any other community in the state.

(5) The board shall, with the joint legislative audit and review committee, develop performance criteria for each grant and evaluation criteria to be used to evaluate both how well successful applicants met the community and economic development objectives stated in their applications, and how well the job development fund program performed in creating and retaining jobs.

Sec. 6. RCW 43.42.010 and 2003 c 71 s 2 are each amended to read as follows:

(1) The office of regulatory assistance is created in the office of financial management and shall be administered by the office of the governor to assist citizens, businesses, and project applicants.

(2) The office shall:

(a) Maintain and furnish information as provided in RCW 43.42.040;

(b) Furnish facilitation as provided in RCW 43.42.050;

(c) Furnish coordination as provided in RCW 43.42.060;

(d) Coordinate cost reimbursement as provided in RCW 43.42.070;

(e) Work with state agencies and local governments to continue to develop a range of permit assistance options for project applicants;

~~(f) ((Review initiatives developed by the transportation permit efficiency and accountability committee established in chapter 47.06C RCW and determine if any would be beneficial if implemented for other types of projects))~~ Help local jurisdictions comply with the requirements of RCW 36.70B.080 by:

(i) Providing information about best practices and compliance with the requirements of RCW 36.70B.080; and

(ii) Providing technical assistance in reducing the turnaround time between submittal of an application for a development permit and the issuance of the permit;

(g) Work to develop informal processes for dispute resolution between agencies and permit applicants; and

~~(h) Conduct customer surveys to evaluate its effectiveness((; and~~
~~(i) Provide the following biennial reports to the governor and the appropriate committees of the legislature:~~

~~(i) A performance report, based on the customer surveys required in (h) of this subsection;~~

~~(ii) A report on any statutory or regulatory conflicts identified by the office in the course of its duties that arise from differing legal authorities and roles of agencies and how these were resolved. The report may include recommendations to the legislature and to agencies; and~~

~~(iii) A report regarding use of outside independent consultants under RCW 43.42.070, including the nature and amount of work performed and implementation of requirements relating to costs).~~

(3) A director of the office shall be hired no later than June 1, 2003.

(4) The office shall give priority to furnishing assistance to small projects when expending general fund moneys allocated to it.

Sec. 7. RCW 43.131.401 and 2003 c 71 s 5 are each amended to read as follows:

The office of regulatory assistance established in RCW 43.42.010 and its powers and duties shall be terminated June 30, ~~((2007))~~ 2011, as provided in RCW 43.131.402.

Sec. 8. RCW 43.131.402 and 2003 c 71 s 6 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((2008))~~ 2012:

- (1) RCW 43.42.005 and 2003 c 71 s 1 & 2002 c 153 s 1;
- (2) RCW 43.42.010 and section 6 of this act, 2003 c 71 s 2, & 2002 c 153 s 2;
- (3) RCW 43.42.020 and 2002 c 153 s 3;
- (4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;
- (5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;
- (6) RCW 43.42.050 and 2002 c 153 s 6;
- (7) RCW 43.42.060 and 2002 c 153 s 7;
- (8) RCW 43.42.070 and 2002 c 153 s 8;
- (9) RCW 43.42.905 and 2002 c 153 s 10;
- (10) RCW 43.42.900 and 2002 c 153 s 11; and
- (11) RCW 43.42.901 and 2002 c 153 s 12.

NEW SECTION. Sec. 9. Section 4 of this act expires June 30, 2039.

NEW SECTION. Sec. 10. Section 5 of this act expires June 30, 2011."

Correct the title.

Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Anderson; Dunn and McIntire.

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 5528 Prime Sponsor, Senate Committee on Ways & Means: Requiring a review of the essential academic learning requirements in mathematics. (REVISED FOR ENGROSSED: Requiring a revision of essential academic learning requirements and grade level expectations for mathematics.) Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.305 RCW to read as follows:

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

(2) The state board of education shall be assisted in its work under subsection (3) of this section by: (a) An expert national consultant in mathematics retained by the state board; and (b) the mathematics advisory panel created under section 2 of this act, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

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

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

(b) Study of:

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

(ii) College readiness standards;

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

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

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

(4) By January 31, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.

(5)(a) By May 15, 2008, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) By June 30, 2008, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) In selecting the recommended curricula under this subsection (5), the superintendent of public instruction shall provide information to the mathematics advisory panel created under section 2 of this act and seek the advice of the panel regarding the curricula that shall be included in the recommendations.

(d) The recommended curricula under this subsection (5) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(e) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade

span shall be available to schools and parents online at no cost to the school or parent.

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

(7) Nothing in this section requires a school district to use one of the recommended curricula under subsection (5) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(8) Subject to funds appropriated for this purpose and conditions established under this subsection, school districts that adopt one or more of the recommended curricula after the curricula have been adopted shall be reimbursed by the office of the superintendent of public instruction for the cost of purchasing the curricula. The superintendent of public instruction shall establish conditions for school districts to be eligible for curriculum reimbursement funds, including a district implementation plan, a teacher professional development plan, and other evidence that the district is able to maximize the instructional benefit of the recommended curricula.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.305 RCW to read as follows:

(1) The state board of education shall appoint a mathematics advisory panel to advise the board regarding essential academic learning requirements, grade level expectations, and recommended curricula in mathematics and to monitor implementation of these activities. In conducting its work, the panel shall provide objective reviews of materials and information provided by any expert national consultants retained by the board and shall provide a public and transparent forum for consideration of mathematics learning standards and curricula.

(2) The panel shall include no more than sixteen members with representation from individuals from academia in mathematics-related fields, individuals from business and industry in mathematics-related fields, mathematics educators, parents, and other individuals who could contribute to the work of the panel based on their experiences.

(3) Each member of the panel shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. School districts shall be reimbursed for the cost of substitutes for the mathematics educators on the panel as required under RCW 28A.300.035. Members of the panel who are employed by a public institution of higher education shall be provided sufficient time away from their regular duties, without loss of benefits or privileges, to fulfill the responsibilities of being a panel member.

(4) Panel members shall not have conflicts of interest with regard to association with any publisher, distributor, or provider of curriculum, assessment, or test materials and services purchased by or contracted through the office of the superintendent of public instruction, educational service districts, or school districts.

(5) This section expires June 30, 2012.

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 Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

April 2, 2007

SB 5551 Prime Sponsor, Senator Prentice: Enhancing enforcement of liquor and tobacco laws. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Commerce & Labor. Signed by Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 5597 Prime Sponsor, Senate Committee on Ways & Means: Concerning contracts with chiropractors. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) Health carriers may not directly or indirectly, through contract or otherwise, refuse to reimburse a chiropractor, who has signed a participating provider agreement, for the provision of health care services if:

(a) The health care service is:

(i) Medically necessary;

(ii) Within the scope of practice of the chiropractor;

(iii) Provided by the chiropractor or the chiropractor's employees who work in the same location as the chiropractor and either are licensed under chapter 18.25 RCW or are employees specified in RCW 18.25.190 (2) or (3) to whom the chiropractor has delegated the work pursuant to rules adopted by the Washington state chiropractic quality assurance commission, and such services are

determined by the carrier to be medically necessary consistent with RCW 48.43.045 and 48.43.545. Such employees must meet the health carrier's reasonable qualifications for all such providers in the relevant class, including but not limited to standards for education, background checks, and licensure, as applicable; and

(iv) Covered chiropractic health care, as defined in RCW 48.43.515, for the health plan under which the enrollee received the services; and

(b) The chiropractor complies with the terms and conditions of the participating provider agreement, including any requirements for cost containment or participation in an evidence-based quality assurance program.

(2) When offering a plan network provider contract to a chiropractic practice, whether the practice consists of two or more chiropractors as partners, members, or shareholders, health carriers must offer all chiropractors in the practice the opportunity to be participating providers, subject to the chiropractor's compliance with RCW 48.43.045(1)(b). This subsection does not prohibit a participating provider agreement from allowing either party to terminate the agreement without cause under the terms of the agreement.

(3) This section does not relieve a chiropractor from responsibility or liability imposed by law for delegated services performed by the chiropractor's employee.

(4) Any term or condition of any participating provider agreement between a chiropractor and a health carrier that attempts to waive this section is invalid.

(5) This section applies only to participating provider agreements that are executed or renewed on or after January 1, 2008.

Sec. 2. RCW 41.05.017 and 2000 c 5 s 20 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, ~~((and))~~ 70.02.900, and section 1 of this act.

NEW SECTION. Sec. 3. This act does not affect any existing right acquired or liability or obligation incurred prior to the effective date of this act.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Fromhold; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Ericks; Grant; Haler; Hinkle; Kretz; Linville and McDonald.

Passed to Committee on Rules for second reading.

April 2, 2007

E2SSB 5627 Prime Sponsor, Senate Committee on Ways & Means: Requiring a review and development of basic education funding. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The state's definition of basic education and the corresponding funding formulas must be regularly updated in order to keep pace with evolving educational practices and increasing state and federal requirements and to ensure that all schools have the resources they need to help give all students the opportunity to be fully prepared to compete in a global economy. The work of Washington learns steering committee and the K-12 advisory committee provides a valuable starting point from which to evaluate the current educational system and develop a unique, transparent, and stable educational funding system for Washington that supports the goals and the vision of a world-class learner-focused K-12 educational system that were established in the final Washington learns report.

This act is intended to make provision for some significant steps towards a new basic education funding system and establishes a joint task force to address the details and next steps beyond the 2007-2009 biennium that will be necessary to implement a new comprehensive K-12 finance formula or formulas that will provide Washington schools with stable and adequate funding as the expectations for the K-12 system continue to evolve.

NEW SECTION. Sec. 2. (1) The joint task force on basic education finance established under this section, with research support from the Washington state institute for public policy, shall review the definition of basic education and all current basic education funding formulas, develop options for a new funding structure and all necessary formulas, and propose a new definition of basic education that is realigned with the new expectations of the state's education system as established in the November 2006 final report of the Washington learns steering committee and the basic education provisions established in chapter 28A.150 RCW.

(2) The joint task force on basic education finance shall consist of fourteen members:

(a) A chair of the task force with experience with Washington finance issues including knowledge of the K-12 funding formulas, appointed by the governor;

(b) Eight legislators, with two members from each of the two largest caucuses of the senate appointed by the president of the senate and two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives;

(c) A representative of the governor's office or the office of financial management, designated by the governor;

(d) The superintendent of public instruction or the superintendent's designee; and

(e) A school superintendent, a school finance officer, and an educational service district superintendent, each appointed by the governor from a list of names submitted by their respective professional associations.

(3) In conducting research directed by the task force and developing options for consideration by the task force, the Washington state institute for public policy shall consult with stakeholders and experts in the field. The institute may also request assistance from the legislative evaluation and accountability program committee, the office of the superintendent of public instruction, the office of financial management, the house office of program research, and senate committee services.

(4) In developing recommendations, the joint task force shall review and build upon the following:

(a) Reports related to K-12 finance produced at the request of or as a result of the Washington learns study, including reports completed for or by the K-12 advisory committee;

(b) High-quality studies that are available; and

(c) Research and evaluation of the cost-benefits of various K-12 programs and services developed by the institute as directed by the legislature in section 607(15), chapter 372, Laws of 2006.

(5) The Washington state institute for public policy shall provide the following reports to the joint task force:

(a) An initial report by September 15, 2007, proposing an initial plan of action, reporting dates, timelines for fulfilling the requirements of section 3 of this act, and an initial timeline for a phased-in implementation of a new funding system that does not exceed six years;

(b) A second report by December 1, 2007, including implementing legislation as necessary, for at least two but no more than four options for allocating school employee compensation. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The report must also include a projection of the expected effect of the investment made under the new funding structure. The second report shall also include a finalized timeline and plan for addressing the remaining components of a new funding system; and

(c) A final report with at least two but no more than four options for revising the remaining K-12 funding structure, including implementing legislation as necessary, and a timeline for phasing in full adoption of the new funding structure. The final report shall be submitted to the joint task force by September 15, 2008. One of the options must be a redirection and prioritization within existing resources based on research-proven education programs. The final report must also include a projection of the expected effect of the investment made under the new funding structure.

NEW SECTION. Sec. 3. (1) The funding structure alternatives developed by the joint task force under section 2 of this act shall take into consideration the legislative priorities in this section, to the maximum extent possible and as appropriate to each formula.

(2) The funding structure should reflect the most effective instructional strategies and service delivery models and be based on research-proven education programs and activities with demonstrated cost benefits. In reviewing the possible strategies and models to include in the funding structure the task force shall, at a minimum, consider the following issues:

(a) Professional development for all staff;

(b) Whether the compensation system for instructional staff shall include pay for performance, knowledge, and skills elements; regional cost-of-living elements; elements to recognize assignments that are difficult; recognition for the professional teaching level

certificate in the salary allocation model; and a plan to implement the pay structure;

(c) Voluntary all-day kindergarten;

(d) Optimum class size, including different class sizes based on grade level and ways to reduce class size;

(e) Focused instructional support for students and schools;

(f) Extended school day and school year options; and

(g) Health and safety requirements.

(3) The recommendations should provide maximum transparency of the state's educational funding system in order to better help parents, citizens, and school personnel in Washington understand how their school system is funded.

(4) The funding structure should be linked to accountability for student outcomes and performance.

NEW SECTION. Sec. 4. 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 Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; McDonald; Priest and Walsh.

Passed to Committee on Rules for second reading.

April 2, 2007

2SSB 5652 Prime Sponsor, Senate Committee on Ways & Means: Establishing the microenterprise development program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(a) Microenterprises are an important portion of Washington's economy, providing approximately twenty percent of the employment in Washington and playing a vital role in job creation.

(b) While community-based microenterprise development organizations have expanded their assistance to their microentrepreneur customers in recent years, there remains a lack of access to capital, training, and technical assistance for low-income microentrepreneurs.

(c) Support for microenterprise development offers a means to expand business and job creation in low-income communities in both rural and urban areas of the state.

(d) Local and state charitable foundation support, federal program funding, and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) It is the purpose of this act to assist microenterprises in job creation by increasing the training, technical assistance, and financial resources available to microenterprises. It is the intention of the legislature to carry out this purpose by enabling the department of community, trade, and economic development to contract with a statewide microenterprise association with the potential to provide organizational support and administer grants to local microenterprise development organizations, subject to the requirements of this act, and to leverage additional funds from sources other than moneys appropriated from the general fund.

Sec. 2. RCW 43.330.010 and 1993 c 280 s 3 are each amended to read as follows:

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

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

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of community, trade, and economic development and local microenterprise development organizations.

NEW SECTION. Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:

The microenterprise development program is established in the department of community, trade, and economic development. In implementing the program, the department:

(1) Shall provide organizational support to a statewide microenterprise association and shall contract with the association for the delivery of services and distribution of grants;

(a) The association shall serve as the department's agent in carrying out the purpose and service delivery requirements of this section;

(b) The association's contract with the department shall specify that in administering the funds provided for under subsection (3) of this section, the association may use no greater than ten percent of the funds to cover administrative expenses;

(2) Shall provide funds for capacity building for the statewide microenterprise association and microenterprise development organizations throughout the state;

(3) Shall provide grants to microenterprise development organizations for the delivery of training and technical assistance services;

(4) Shall identify and facilitate the availability of state, federal, and private sources of funds which may enhance microenterprise development in the state;

(5) Shall develop with the statewide microenterprise association criteria for the distribution of grants to microenterprise development organizations. Such criteria may include:

(a) The geographic representation of all regions of the state, including both urban and rural communities;

(b) The ability of the microenterprise development organization to provide business development services in low-income communities;

(c) The scope of services offered by a microenterprise development organization and their efficiency in delivery of such services;

(d) The ability of the microenterprise development organization to monitor the progress of its customers and identify technical and financial assistance needs;

(e) The ability of the microenterprise development organization to work with other organizations, public entities, and financial institutions to meet the technical and financial assistance needs of its customers;

(f) The sufficiency of operating funds for the microenterprise development organization; and

(g) Such other criteria as agreed by the department and the association;

(6) Shall require the statewide microenterprise association and any microenterprise development organization receiving funds through the microenterprise development program to raise and contribute to the effort funded by the microenterprise development program an amount equal to twenty-five percent of the microenterprise development program funds received. Such matching funds may come from private foundations, federal or local sources, financial institutions, or any other source other than funds appropriated from the legislature;

(7) Shall require an annual accounting and report from the statewide microenterprise association it contracts with, to include such outcome measures as the department specifies; and

(8) May adopt rules as necessary to implement this section.

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, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Buri; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Anderson and Chandler.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5653 Prime Sponsor, Senate Committee on Economic Development, Trade & Management: Authorizing the development of self-employment assistance programs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 50.20 RCW to read as follows:

(1) The legislature finds that the establishment of a self-employment assistance program would assist unemployed individuals and create new businesses and job opportunities in Washington state. The department shall inform individuals identified as likely to exhaust regular unemployment benefits of the opportunity to enroll in commissioner-approved self-employment assistance programs.

(2) An unemployed individual is eligible to participate in a self-employment assistance program if it has been determined that he or she:

(a) Is otherwise eligible for regular benefits as defined in RCW 50.22.010;

(b) Has been identified as likely to exhaust regular unemployment benefits under a profiling system established by the commissioner as defined in P.L. 103-152; and

(c) Is enrolled in a self-employment assistance program that is approved by the commissioner, and includes entrepreneurial training, business counseling, technical assistance, and requirements to engage in activities relating to the establishment of a business and becoming self-employed.

(3) Individuals participating in a self-employment assistance program approved by the commissioner are eligible to receive their regular unemployment benefits.

(a) The requirements of RCW 50.20.010 and 50.20.080 relating to availability for work, active search for work, and refusal to accept suitable work are not applicable to an individual in the self-employment assistance program for the first fifty-two weeks of the individual's participation in the program. However, enrollment in a self-employment assistance program does not entitle the enrollee to any benefit payments he or she would not be entitled to had he or she not enrolled in the program.

(b) An individual who meets the requirements of this section is considered to be "unemployed" under RCW 50.04.310 and 50.20.010.

(4) An individual who fails to participate in his or her approved self-employment assistance program as prescribed by the commissioner is disqualified from continuation in the program.

(5) An individual completing the program may not directly compete with his or her separating employer for a specific time period and in a specific geographic area. The time period may not, in any case, exceed one year. Both the time period and the geographic area must be reasonable, considering the following factors:

(a) Whether restraining the individual from performing services is necessary for the protection of the employer or the employer's goodwill;

(b) Whether the agreement harms the individual more than is reasonably necessary to secure the employer's business or goodwill; and

(c) Whether the loss of the employee's services and skills injures the public to a degree warranting nonenforcement of the agreement.

(6) The commissioner shall take all steps necessary in carrying out this section to assure collaborative involvement of interested parties in program development, and to ensure that the self-employment assistance programs meet all federal criteria for withdrawal from the unemployment fund. The commissioner may approve, as self-employment assistance programs, existing self-employment training programs available through community colleges, work force investment boards, or other organizations and is not obligated by this section to expend any departmental funds for the operation of self-employment assistance programs, unless specific funding is provided to the department for that purpose through federal or state appropriations.

(7) The commissioner may adopt rules as necessary to implement this section.

Sec. 2. RCW 50.20.095 and 1980 c 74 s 4 are each amended to read as follows:

Any individual registered at an established school in a course of study providing scholastic instruction of twelve or more hours per week, or the equivalent thereof, shall be disqualified from receiving benefits or waiting period credit for any week during the school term commencing with the first week of such scholastic instruction or the week of leaving employment to return to school, whichever is the earlier, and ending with the week immediately before the first full week in which the individual is no longer registered for twelve or more hours of scholastic instruction per week: PROVIDED, That registration for less than twelve hours will be for a period of sixty days or longer. The term "school" includes primary schools, secondary schools, and "institutions of higher education" as that phrase is defined in RCW 50.44.037.

This disqualification shall not apply to any individual who:

(1) Is in approved training within the meaning of RCW 50.20.043; ~~((or))~~

(2) Is in an approved self-employment assistance program under section 1 of this act; or

(3) Demonstrates to the commissioner by a preponderance of the evidence his or her actual availability for work, and in arriving at this determination the commissioner shall consider the following factors:

(a) Prior work history;

(b) Scholastic history;

(c) Past and current labor market attachment; and

(d) Past and present efforts to seek work.

NEW SECTION. Sec. 3. By December 1, 2011, the employment security department shall report to the house of representatives commerce and labor committee and the senate labor, commerce, research and development committee on the performance of the self-employment assistance program. The report shall include an analysis of the following:

(1) Self-employment impacts;

(2) Wage and salary outcomes;

(3) Benefit payment outcomes; and

(4) A cost-benefit analysis.

NEW SECTION. Sec. 4. This act takes effect January 1, 2008.

NEW SECTION. Sec. 5. The commissioner of employment security may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 6. This act expires July 1, 2012."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; Priest and Walsh.

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 5659 Prime Sponsor, Senate Committee on Ways & Means: Establishing family and medical leave insurance. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Labor.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND DECLARATIONS. The legislature finds that, although family and medical 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, children and family health, workforce stability, and economic security. In particular, the legislature finds that many individuals do not have access to family and medical leave laws, and those who do may not be in a financial position to take family and medical leave that is unpaid, and that employer-paid 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) provides limited and additional income support for a reasonable period while an individual is away from work on family and medical leave; (3) reduces the impact on state income support programs by increasing an individual's ability to provide caregiving services for family members while maintaining an employment relationship; and (4) establishes a wage replacement benefit to be coordinated with current existing state and federal family and medical leave laws."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Ericks; Fromhold; Grant; Haler; Hinkle; Kretz; Linville and Priest.

Passed to Committee on Rules for second reading.

April 2, 2007

ESB 5675 Prime Sponsor, Senator Franklin: Increasing minimum industrial insurance benefits. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker (~~but not less than one hundred eighty-five dollars~~);

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker (~~but not less than two hundred twenty-two dollars~~);

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker (~~but not less than two hundred fifty-three dollars~~);

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker (~~but not less than two hundred seventy-six dollars~~);

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker (~~but not less than two hundred ninety-nine dollars~~); or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker (~~but not less than three hundred twenty-two dollars~~).

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall

be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%

June 30, 1996 120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

Sec. 2. RCW 51.32.060 and 1993 c 521 s 2 are each amended to read as follows:

(1) When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(a) If married at the time of injury, sixty-five percent of his or her wages (~~but not less than two hundred fifteen dollars per month~~).

(b) If married with one child at the time of injury, sixty-seven percent of his or her wages (~~but not less than two hundred fifty-two dollars per month~~).

(c) If married with two children at the time of injury, sixty-nine percent of his or her wages (~~but not less than two hundred eighty-three dollars~~).

(d) If married with three children at the time of injury, seventy-one percent of his or her wages (~~but not less than three hundred six dollars per month~~).

(e) If married with four children at the time of injury, seventy-three percent of his or her wages (~~but not less than three hundred twenty-nine dollars per month~~).

(f) If married with five or more children at the time of injury, seventy-five percent of his or her wages (~~but not less than three hundred fifty-two dollars per month~~).

(g) If unmarried at the time of the injury, sixty percent of his or her wages (~~but not less than one hundred eighty-five dollars per month~~).

(h) If unmarried with one child at the time of injury, sixty-two percent of his or her wages (~~but not less than two hundred twenty-two dollars per month~~).

(i) If unmarried with two children at the time of injury, sixty-four percent of his or her wages (~~but not less than two hundred fifty-three dollars per month~~).

(j) If unmarried with three children at the time of injury, sixty-six percent of his or her wages (~~but not less than two hundred seventy-six dollars per month~~).

(k) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages (~~but not less than two hundred ninety-nine dollars per month~~).

(l) If unmarried with five or more children at the time of injury, seventy percent of his or her wages (~~but not less than three hundred twenty-two dollars per month~~).

(2) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(3) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(4) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(5) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if a worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (5)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

The limitations under this subsection shall not apply to the payments provided for in subsection (3) of this section.

(6) In the case of new or reopened claims, if the supervisor of industrial insurance determines that, at the time of filing or reopening, the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

(7) The benefits provided by this section are subject to modification under RCW 51.32.067.

Sec. 3. RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993 c 271 s 1 are each reenacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(4)(a) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her physician for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(b) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's

written consent, or without prior review and approval by the worker's physician.

(c) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(d) In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if the worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (7)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

NEW SECTION. Sec. 4. This act takes effect July 1, 2008.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Seaquist; P. Sullivan and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle and Kretz.

Passed to Committee on Rules for second reading.

April 2, 2007

ESSB 5774 Prime Sponsor, Senate Committee on Human Services & Corrections: Revising background check requirements for the department of social and health services and the department of early learning. (REVISED FOR ENGROSSED: Revising background check processes.) Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Children's Services.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) In order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through the Washington state patrol and the federal bureau of investigation at anytime, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(c) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) The secretary shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the

department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law.

(3) Any secure facility operated by the department under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(4) Service providers and service provider applicants who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(5) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) Foster care as required under RCW 74.15.030.

(6) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(7) Children's administration service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(8) The department shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(9) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department;

(ii) Seeking a contract with the department or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department client or guardian of a department client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered; or

(v) A department applicant who will or may work in a department-covered position.

(b) "Authorized" means the department grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department program; or

(iv) Work or serve in a department-covered position.

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

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

(e) "Secure facility" has the meaning provided in RCW 71.09.020.

(f) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department client or guardian of a department client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered. "Service provider" does not include those certified under chapter 70.96A RCW.

Sec. 2. RCW 26.33.190 and 1991 c 136 s 3 are each amended to read as follows:

(1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) Disclosure of the fact of adoption to the child;

(d) The child's possible questions about birth parents and relatives; and

(e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include ~~((an investigation))~~ a background check of ~~((the))~~ any conviction records, pending charges,

or disciplinary board final decisions of prospective adoptive parents. The ~~((investigation))~~ background check shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system ~~((as described in chapter 43.43 RCW))~~ including, but not limited to, a fingerprint-based background check of national crime information databases for any person being investigated. It shall also include a review of any child abuse and neglect history of any adult living in the prospective adoptive parents' home. The background check of the child abuse and neglect history shall include a review of the child abuse and neglect registries of all states in which the prospective adoptive parents or any other adult living in the home have lived during the five years preceding the date of the preplacement report.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done.

Sec. 3. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary

service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report,

a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make

reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(13) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

~~((13))~~ (14) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((15))~~ (16) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

Sec. 4. RCW 43.43.842 and 1998 c 10 s 4 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830(~~;- or (iv) the subject in a protective proceeding under chapter 74.34 RCW~~).

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to

financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

Sec. 5. RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

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

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

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

~~(b) ((The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons:~~

~~— In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure:~~

~~— No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense.~~

~~— The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose:~~

~~(e)) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;~~

~~(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;~~

~~(d) Obtaining child protective services information or records maintained in the department case management information system. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter;~~

~~(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for;~~

~~(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicensure;~~

~~(ii) Foster care and adoption placements; and~~

~~(iii) Any adult living in a home where a child may be placed;~~

~~(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;~~

~~(g) The cost of fingerprint background check fees will be paid as required in section 1 of this act;~~

~~(h) National and state background information must be used solely for the purpose of determining eligibility for a license and for~~

determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;

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

~~((f)) (j) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;~~

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

~~((f)) (l) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and~~

~~((g)) (m) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;~~

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies;

(9) To engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with RCW 74.15.035 and with other affected interests before adopting requirements that affect family child care licensees; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

NEW SECTION. Sec. 6. Federal and state law require the balancing of the privacy interests of individuals with the government's interest in the protection of children and vulnerable adults. The legislature finds that the balancing of these interests may be skewed in favor of the privacy rights of individuals. Therefore, a

work group is created to research the current laws regarding background checks for prospective employees of public and private entities which work with vulnerable adults or children. The legislature finds that a comprehensive background check which includes both civil and criminal information is a valuable tool in safeguarding vulnerable adults and children from preventable risk.

NEW SECTION. Sec. 7. (1) The department of social and health services shall convene a work group to review the current federal and state laws and administrative rules and practices with respect to sharing confidential information and to examine the need for and feasibility of verifying citizenship or immigration status of persons for whom background checks are required.

(2)(a) The work group shall include but not be limited to the following members, chosen by the chief executive officer of each entity:

- (i) A representative of the department of social and health services;
- (ii) A representative of the department of early learning;
- (iii) A representative of the department of health;
- (iv) A representative of the office of the superintendent of public instruction;
- (v) A representative of the department of licensing;
- (vi) A representative of the Washington state patrol;
- (vii) A representative from the Washington state bar association;
- (viii) A representative of the Washington association of sheriffs and police chiefs;
- (ix) A representative of the Washington association of criminal defense attorneys;
- (x) A representative from the administrative office of the courts;
- (xi) A representative from the department of information services; and
- (xii) A representative from the department of licensing.

(b) The work group shall also include as nonvoting ex officio members:

- (i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate; and
- (ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(c) Additional voting members may be invited to participate as determined by the work group.

(3) Appointments to the work group shall be completed within thirty days of the effective date of this section.

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The secretary of the department of social and health services or the secretary's designee shall serve as chair of the work group.

(7) The department of social and health services shall provide staff support to the work group.

(8) The work group shall:

(a) Provide an interim report to the legislature and the governor by December 1, 2007; and

(b) Make recommendations to the legislature and the governor by July 1, 2008, regarding improving current processes for sharing

information, including but not limited to the feasibility of creating a clearinghouse of information.

(i) The clearinghouse shall simplify administrative handling of background check requests and reduce the total costs and number of full-time employees involved in doing the work, develop expertise in searching multiple databases, and include a process for reducing the total amount of time it takes to process background checks, including using workflow management software to improve transparency of process impediments.

(ii) The workgroup should consider where to locate the administrative work, possibly considering the use of the department of licensing's facilities for collecting fingerprints and other identifying information about applicants.

(9) This section expires November 30, 2008.

Sec. 8. RCW 41.06.475 and 2002 c 354 s 222 are each amended to read as follows:

The director shall adopt rules, in cooperation with the ~~(secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons)~~ director of the department of early learning, for the background investigation of current employees and of persons being actively considered for positions with the department who will or may have unsupervised access to children. The director shall also adopt rules, in cooperation with the director of the department of early learning, for background investigation of positions otherwise required by federal law to meet employment standards. "Considered for positions" includes decisions about (1) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (2) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

Sec. 9. RCW 43.43.830 and 2005 c 421 s 1 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 43.43.845.

(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 person, 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, or that provides child day care, early learning, or early learning childhood

education services, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" 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, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to 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~~) findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right (~~(afforded to him or her)~~) to administratively challenge such 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 and 10.97.050 relating to a crime 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) "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.

(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.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

Sec. 10. RCW 43.43.832 and 2006 c 263 s 826 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 identification 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 conviction record (~~(for convictions)~~) as defined in chapter 10.97 RCW.

(2) The legislature also finds that the Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's conviction 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 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)) The director of the department of early learning shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.~~

~~(5) The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:~~

~~(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;~~

~~(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;~~

~~(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;~~

~~(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.~~

~~(6) 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)) (7)(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.)~~

NEW SECTION. Sec. 11. If specific funding for the purposes of sections 6 and 7 of this act, referencing sections 6 and 7 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, sections 6 and 7 of this act are null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks;

Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 5790 Prime Sponsor, Senate Committee on Ways & Means: Regarding skill centers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Early Learning & Children's Services. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 30, 2007

SB 5798 Prime Sponsor, Senator Swecker: Preserving the use of design-build construction on certain transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

April 2, 2007

ESSB 5803 Prime Sponsor, Senate Committee on Transportation: Creating regional transportation commissions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike all material after the enacting clause and insert the following:

"NEW SECTION. Sec. 101. FINDINGS. The legislature finds that:

(1) In 2006, the regional transportation commission was created and tasked with evaluating transportation governance in the central Puget Sound area within the jurisdiction of the puget sound regional council, and with developing options for a new regional

transportation governance proposal. The commission's 2006 report to the legislature strongly recommended creating a regional governance entity that has authority over the planning, prioritizing, and funding of regional projects in the area.

(2) The existing approach to transportation governance could be strengthened and improved such that a more coordinated effort is made to maintain our transportation infrastructure and road and transit capacity, as well as provide for planning and funding of transportation, that increases public confidence in governmental ability to solve transportation problems.

(3) While establishing a regional governance entity would help streamline decision-making, reduce congestion, and integrate multimodal transportation planning and prioritization in the region, such an undertaking is complex and there is considerable value in continuing to examine relevant issues as we take steps towards establishing a regional governance entity.

(4) A more unified regional transportation governance structure in the central Puget Sound region would result in improved planning, funding, and prioritization of roads and transit systems, and would better meet the current and future needs of the state."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Dickerson; Eddy; Hudgins; Lovick; Rolfes; Sells; Springer; B. Sullivan; Upthegrove; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Schindler, Assistant Ranking Minority Member; Armstrong; Ericksen; Hailey; Hankins; Rodne; Simpson and Takko.

Passed to Committee on Rules for second reading.

April 2, 2007

2SSB 5806 Prime Sponsor, Senate Committee on Ways & Means: Regarding tuition limits and billing disclosures. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 5828 Prime Sponsor, Senate Committee on Ways & Means: Regarding early child development and learning. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5830 Prime Sponsor, Senate Committee on Human Services & Corrections: Providing home visitation services for families. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 5841 Prime Sponsor, Senate Committee on Ways & Means: Enhancing student learning opportunities and achievement. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

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

Passed to Committee on Rules for second reading.

April 2, 2007

E2SSB 5843 Prime Sponsor, Senate Committee on Ways & Means: Regarding educational data and data systems. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike all material after the enacting clause and insert the following:

"NEW SECTION. Sec. 101. FINDINGS. The legislature finds that:

(1) In 2006, the regional transportation commission was created and tasked with evaluating transportation governance in the central Puget Sound area within the jurisdiction of the puget sound regional council, and with developing options for a new regional transportation governance proposal. The commission's 2006 report to the legislature strongly recommended creating a regional governance entity that has authority over the planning, prioritizing, and funding of regional projects in the area.

(2) The existing approach to transportation governance could be strengthened and improved such that a more coordinated effort is made to maintain our transportation infrastructure and road and transit capacity, as well as provide for planning and funding of transportation, that increases public confidence in governmental ability to solve transportation problems.

(3) While establishing a regional governance entity would help streamline decision-making, reduce congestion, and integrate multimodal transportation planning and prioritization in the region, such an undertaking is complex and there is considerable value in continuing to examine relevant issues as we take steps towards establishing a regional governance entity.

(4) A more unified regional transportation governance structure in the central Puget Sound region would result in improved planning, funding, and prioritization of roads and transit systems, and would better meet the current and future needs of the state."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

Passed to Committee on Rules for second reading.

March 30, 2007

E2SSB 5862 Prime Sponsor, Senate Committee on Ways & Means: Regarding passenger-only ferry

service. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.57A.220 and 2006 c 332 s 8 are each amended to read as follows:

A public transportation benefit area seeking grant funding as described in RCW 47.01.350 for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, ~~((2006))~~ 2007. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with the Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and a long-term financial plan.

Sec. 2. RCW 47.01.350 and 2006 c 332 s 4 are each amended to read as follows:

(1) The department of transportation shall establish a ferry grant program subject to availability of amounts appropriated for this specific purpose. The purpose of the grant program is to provide operating or capital grants for ferry systems as provided in chapters 36.54 and 36.57A RCW to operate passenger-only ferry service.

(2) In providing grants under this section, the department may enter into multiple year contracts with the stipulation that future year allocations are subject to the availability of funding as provided by legislative appropriation.

~~((3) Priority shall be given to grant applications that provide continuity of existing passenger-only service and the provision of local or federal matching funds.))~~

Sec. 3. RCW 47.60.662 and 2006 c 332 s 5 are each amended to read as follows:

The Washington state ferry system shall collaborate with new and potential passenger-only ferry service providers, as described in ~~((RCW 36.54.110(5)))~~ chapters 36.54 and 36.57A RCW, for terminal operations at its existing terminal facilities.

Sec. 4. 2006 c 332 s 2 (uncodified) is amended to read as follows:

~~((By October 31, 2006, the department of transportation shall have an independent appraisal of the market value of the Washington state ferries Snohomish and Chinook and present it to the transportation committees of the legislature and the governor by November 1, 2006.))~~ The department of transportation shall ~~((sell or otherwise dispose of))~~ make available for sale the Washington state ferries Snohomish and Chinook ~~((for))~~ at market value ~~((and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645 as soon as practicable upon approval by the governor of the business plan described in RCW 36.54.110(5)))~~ by June 1, 2007. Proceeds from the sale must be deposited into the passenger ferry account created in RCW 47.60.645.

Sec. 5. RCW 36.54.110 and 2006 c 332 s 7 are each amended to read as follows:

(1) The legislative authority of a county may adopt an ordinance creating a ferry district in all or a portion of the area of the county, including the area within the corporate limits of any city or town within the county. The ordinance may be adopted only after a public hearing has been held on the creation of a ferry district, and the county legislative authority makes a finding that it is in the public interest to create the district.

(2) A ferry district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(3) A ferry district is a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(4) The members of the county legislative authority, acting ex officio and independently, shall compose the governing body of any ferry district that is created within the county. The voters of a ferry district must be registered voters residing within the boundaries of the district.

(5) A county with a population greater than one million persons and having a boundary on Puget Sound, or a county to the west of Puget Sound with a population greater than two hundred thirty thousand but less than three hundred thousand persons, proposing to create a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion of that route to include Southworth, shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, ~~((2006))~~ 2007. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-term financial plan. The business plan may include provisions regarding coordination with an appropriate county to participate in a joint ferry under RCW 36.54.030 through 36.54.070. In order to be considered for assuming the route, the ferry district shall ensure that the route will be operated only by the ferry district and not contracted out to a private entity, all existing labor agreements will be honored, and operations will begin no later than July 1, ~~((2007))~~ 2008. If the route is to be expanded to include serving Southworth, the ferry district shall enter into an interlocal agreement with the public transportation benefit area serving the Southworth ferry terminal within thirty days of beginning Southworth ferry service. For the purposes of this subsection, Puget Sound is considered as extending north to Admiralty Inlet.

Sec. 6. RCW 36.54.130 and 2006 c 332 s 9 are each amended to read as follows:

(1) To carry out the purposes for which ferry districts are created, the governing body of a ferry district may levy each year an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown to be required by the budget prepared by the governing body of the ferry district.

(2) A tax imposed under this section may be used only for:

- (a) Providing ferry services, including the purchase, lease, or rental of ferry vessels and dock facilities(;))
- (b) The operation ((and)) maintenance, and improvement of ferry vessels and dock facilities(;))

(c) Providing shuttle services between the ferry terminal and passenger parking facilities, and other landside improvements directly related to the provision of passenger-only ferry service; and

(d) Related personnel costs.

NEW SECTION. Sec. 7. A new section is added to chapter 36.54 RCW to read as follows:

(1) A county ferry district may incur general indebtedness, and issue general obligation bonds, to finance the construction, purchase, and preservation of passenger-only ferries and associated terminals and retire the indebtedness in whole or in part from the revenues received from the tax levy authorized in RCW 36.54.130.

(2) The ordinance adopted by the county legislative authority creating the county ferry district and authorizing the use of revenues received from the tax levy authorized in RCW 36.54.130 must indicate an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

Sec. 8. RCW 47.60.120 and 2003 c 373 s 2 and 2003 c 83 s 204 are each reenacted and amended to read as follows:

~~((+))~~ If the department acquires or constructs, maintains, and operates any ferry crossings upon ~~((or toll bridges over))~~ Puget Sound or any of its tributary or connecting waters, there shall not be constructed, operated, or maintained any other ferry crossing upon ~~((or bridge over))~~ any such waters ~~((within ten miles of any such crossing or bridge operated or maintained))~~ in a manner that would interfere with the safe operation of ferries by the department ~~((excepting such)), except for bridges or ferry crossings in existence(;) and being operated and maintained ((under a) lawfully ((issued franchise)) at the time of the location of the ferry crossing ((or construction of the toll bridge)) by the department.~~

~~((2))~~ The ten-mile distance in subsection (1) of this section means ten statute miles measured by airline distance. The ten-mile restriction shall be applied by comparing the two end points (termini) of a state ferry crossing to those of a private ferry crossing.

~~(3)~~ The Washington utilities and transportation commission may, upon written petition of a commercial ferry operator certified or applying for certification under chapter 81.84 RCW, and upon notice and hearing, grant a waiver from the ten-mile restriction. The waiver must not be detrimental to the public interest. In making a decision to waive the ten-mile restriction, the commission shall consider, but is not limited to, the impact of the waiver on transportation congestion mitigation, air quality improvement, and the overall impact on the Washington state ferry system. The commission shall act upon a request for a waiver within ninety days after the conclusion of the hearing. A waiver is effective for a period of five years from the date of issuance. At the end of five years the waiver becomes permanent unless appealed within thirty days by the commission on its own motion, the department, or an interested party.

~~(4)~~ The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise.

~~(5)~~ This section does not apply to the operation of passenger-only ferry service by public transportation benefit areas meeting the requirements of RCW 36.57A.200 or to the operation of passenger-only ferry service by ferry districts.)

Sec. 9. RCW 47.60.658 and 2006 c 332 s 3 are each amended to read as follows:

The department shall maintain the level of service existing on January 1, 2006, for the Vashon to Seattle passenger-only ferry route until such time as the ~~((legislature approves a county ferry district's assumption of the route, as authorized under RCW 36.54.110(5)))~~ route is assumed by another entity, providing a level of service at or exceeding the state level.

Sec. 10. RCW 82.08.0255 and 2005 c 443 s 5 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

~~(d)~~ The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

Sec. 11. RCW 82.12.0256 and 2005 c 443 s 6 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

~~(d)~~ The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)((e)) (d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue.

NEW SECTION. Sec. 12. 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 8 of this act which takes effect July 1, 2008."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Dickerson; Hailey; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

March 31, 2007

SSB 5881 Prime Sponsor, Senate Committee on Water, Energy & Telecommunications: Modifying water power license fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.16.050 and 1929 c 105 s 1 are each amended to read as follows:

(1) Every person, firm, private or municipal corporation, or association hereinafter called "claimant", claiming the right to the use of water within or bordering upon the state of Washington for power development, shall on or before the first day of ~~((July, 1929, and on or before the first day of))~~ January of each year ~~((thereafter))~~ pay to the state of Washington in advance an annual license fee, based upon the theoretical water power claimed under each and every separate claim to water according to the following schedule:

(a) For projects in operation: For each and every theoretical horsepower claimed up to and including one thousand horsepower, at the rate of ~~((ten))~~ eighteen cents per horsepower; for each and every theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of ~~((two))~~ three and six-tenths cents per horsepower; for each and every theoretical horsepower in excess of ten thousand horsepower, at the rate of one and eight-tenths cents per horsepower.

(b) For federal energy regulatory commission projects in operation, the following fee schedule applies in addition to the fees in (a) of this subsection: For each theoretical horsepower of capacity up to and including one thousand horsepower, at the rate of thirty-two cents per horsepower; for each theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of six and four-tenths cents per horsepower; for each theoretical horsepower in excess of ten thousand horsepower, at the rate of three and two-tenths cents per horsepower.

(c) To justify the appropriate use of fees collected under (b) of this subsection, the department of ecology shall submit a progress report to the appropriate committees of the legislature prior to December 31, 2009, and biennially thereafter until December 31, 2017.

(i) The progress report will: (A) Describe how license fees were expended in the federal energy regulatory commission licensing process during the current biennium, and expected workload and full-time equivalent employees for federal energy regulatory commission licensing in the next biennium; (B) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and (C) recognize hydropower operators that exceed their environmental regulatory requirements.

(ii) The fees required in (b) of this subsection expire June 30, 2017. The biennial progress reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.

(2) The following are exceptions to the fee schedule in subsection (1) of this section:

(a) For undeveloped projects, the fee shall be at one-half the rates specified for projects in operation; for projects partly developed and in operation the fees paid on that portion of any project that shall have been developed and in operation shall be the full annual license fee ~~((above))~~ specified in subsection (1) of this section for projects in operation, and for the remainder of the power claimed under such project the fees shall be the same as for undeveloped projects. ~~((PROVIDED, That upon the filing of statement, as hereinafter required, by the United States or the state claiming the right to the use of water to any extent for the generation of power, or any other claimant to the use of water for the generation of fifty horsepower, or less, shall be exempted from the payment of all fees hereinafter required; and PROVIDED FURTHER, That))~~

(b) The fees required in subsection (1) of this section do not apply to any hydropower project owned by the United States.

(c) The fees required in subsection (1) of this section do not apply to the use of water for the generation of fifty horsepower or less.

(d) The fees required in subsection (1) of this section for projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system shall be reduced by fifty percent to reflect the portion of the year when the project is not operable.

(e) Any irrigation district or other municipal subdivision of the state, developing power chiefly for use in pumping of water for irrigation, ~~((may))~~ upon the filing of a statement ~~((;))~~ showing the amount of power used for irrigation pumping, ~~((be exempted))~~ is exempt from the fees in subsection (1) of this section to the extent of the power ~~((or))~~ used ~~((from the payment of the annual license fee herein provided))~~ for irrigation pumping.

Sec. 2. RCW 90.16.090 and 1988 c 127 s 79 are each amended to read as follows:

(1) All fees paid under provisions of this chapter, shall be credited by the state treasurer to the reclamation ~~((revolving))~~ account created in RCW 89.16.020 and subject to legislative appropriation, be allocated and expended by the director of ecology for:

(a) Investigations and surveys of natural resources in cooperation with the federal government, or independently thereof, including stream gaging, hydrographic, topographic, river, underground water, mineral and geological surveys ~~((PROVIDED; That in any one biennium all said expenditures shall not exceed total receipts from said power license fees collected during said biennium; AND PROVIDED FURTHER, That the portion of money allocated by said director to be expended in cooperation with the federal government shall be contingent upon the federal government making available equal amounts for such investigations and surveys)); and~~

(b) Expenses associated with staff at the departments of ecology and fish and wildlife working on federal energy regulatory commission relicensing and license implementation.

(2) Unless otherwise required by the omnibus biennial appropriations acts, the expenditures for these purposes must be proportional to the revenues collected under RCW 90.16.050(1)."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; McDonald and Priest.

Passed to Committee on Rules for second reading.

April 2, 2007

ESSB 5894 Prime Sponsor, Senate Committee on Water, Energy & Telecommunications: Clarifying the regulatory authority for on-site sewage systems. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Select Committee on Environmental Health.

Strike everything after the enacting clause and insert the following:

**"PART 1
CREATING A NEW CHAPTER DEDICATED TO LARGE ON-SITE SEWAGE SYSTEMS**

NEW SECTION. Sec. 1. FINDINGS AND INTENT. The legislature finds that:

(1) Protection of the environment and public health requires properly designed, operated, and maintained on-site sewage systems. Failure of those systems can pose certain health and environmental hazards if sewage leaks above ground or if untreated sewage reaches surface or groundwater.

(2) Chapter 70.118A RCW provides a framework for ongoing management of on-site sewage systems located in marine recovery areas and regulated by local health jurisdictions under state board of health rules. This chapter will provide a framework for comprehensive management of large on-site sewage systems statewide.

(3) The primary purpose of this chapter is to establish, in a single state agency, comprehensive regulation of the design, operation, and maintenance of large on-site sewage systems, and their

operators, that provides both public health and environmental protection. To accomplish these purposes, this chapter provides for:

(a) The permitting and continuing oversight of large on-site sewage systems;

(b) The establishment by the department of standards and rules for the siting, design, construction, installation, operation, maintenance, and repair of large on-site sewage systems; and

(c) The enforcement by the department of the standards and rules established under this chapter.

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

(1) "Department" means the state department of health.

(2) "Industrial wastewater" means the water or liquid carried waste from an industrial process. These wastes may result from any process or activity of industry, manufacture, trade, or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. The term includes contaminated storm water and leachate from solid waste facilities.

(3) "Large on-site sewage system" means an on-site sewage system with design flows of between three thousand five hundred gallons per day and one hundred thousand gallons per day.

(4) "On-site sewage system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and provides subsurface soil treatment and disposal of domestic sewage. It consists of a collection system, a treatment component or treatment sequence, and a subsurface soil disposal system. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. A holding tank that discharges to a sewer is not included in the definition of on-site sewage system. A system into which storm water or industrial wastewater is discharged is not included in the definition of on-site sewage system.

(5) "Person" means any individual, corporation, company, association, firm, partnership, governmental agency, or any other entity whatsoever, and the authorized agents of any such entities.

(6) "Secretary" means the secretary of health.

(7) "Waters of the state" has the same meaning as defined in RCW 90.48.020.

NEW SECTION. Sec. 3. AUTHORIZING THE DEPARTMENT TO PROVIDE COMPREHENSIVE REGULATION OF LARGE ON-SITE SEWAGE SYSTEMS. (1) For the protection of human health and the environment the department shall:

(a) Establish and provide for the comprehensive regulation of large on-site sewage systems including, but not limited to, system siting, design, construction, installation, operation, maintenance, and repair;

(b) Control and prevent pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington, except to the extent authorized by permits issued under this chapter;

(c) Issue annual operating permits for large on-site sewage systems based on the system's ability to function properly in compliance with the applicable comprehensive regulatory requirements; and

(d) Enforce the large on-site sewage system requirements.

(2) Large on-site sewage systems permitted by the department may not be used for treatment and disposal of industrial wastewater or combined sanitary sewer and storm water systems.

(3) The work group convened under RCW 70.118A.080(4) to make recommendations to the appropriate committees of the legislature for the development of certification or licensing of maintenance specialists shall include recommendations for the development of certification or licensing of large on-site system operators.

NEW SECTION. Sec. 4. ANNUAL OPERATING PERMITS REQUIRED--APPLICATION. (1) A person may not install or operate a large on-site sewage system without an operating permit as provided in this chapter after July 1, 2009. The owner of the system is responsible for obtaining a permit.

(2) The department shall issue operating permits in accordance with the rules adopted under section 5 of this act.

(3) The department shall ensure the system meets all applicable siting, design, construction, and installation requirements prior to issuing an initial operating permit. Prior to renewing an operating permit, the department may review the performance of the system to determine compliance with rules and any permit conditions.

(4) At the time of initial permit application or at the time of permit renewal the department shall impose those permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system will be operated and maintained properly. Each application must be accompanied by a fee as established in rules adopted by the department.

(5) Operating permits shall be issued for a term of one year, and shall be renewed annually, unless the operator fails to apply for a new permit or the department finds good cause to deny the application for renewal.

(6) Each permit may be issued only for the site and owner named in the application. Permits are not transferable or assignable except with the written approval of the department.

(7) The department may deny an application for a permit or modify, suspend, or revoke a permit in any case in which it finds that the permit was obtained by fraud or there is or has been a failure, refusal, or inability to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding to the permit applicant or permittee.

(8) For systems with design flows of more than fourteen thousand five hundred gallons per day, the department shall adopt rules to ensure adequate public notice and opportunity for review and comment on initial large on-site sewage system permit applications and subsequent permit applications to increase the volume of waste disposal or change effluent characteristics. The rules must include provisions for notice of final decisions. Methods for providing notice may include electronic mail, posting on the department's internet site, publication in a local newspaper, press releases, mailings, or other means of notification the department determines appropriate.

(9) A person aggrieved by the issuance of an initial permit, or by the issuance of a subsequent permit to increase the volume of waste disposal or to change effluent characteristics, for systems with design flows of more than fourteen thousand five hundred gallons per day, has the right to an adjudicative proceeding. The application for an adjudicative proceeding must be in writing, state the basis for contesting the action, include a copy of the decision, be served on and received by the department within twenty-eight days of receipt

of notice of the final decision, and be served in a manner that shows proof of receipt. An adjudicative proceeding conducted under this subsection is governed by chapter 34.05 RCW.

(10) Any permit issued by the department of ecology for a large on-site sewage system under chapter 90.48 RCW is valid until it first expires after the effective date of this section. The system owner shall apply for an operating permit at least one hundred twenty days prior to expiration of the department of ecology permit.

(11) Systems required to meet operator certification requirements under chapter 70.95B RCW must continue to meet those requirements as a condition of the department operating permit.

NEW SECTION. Sec. 5. RULE MAKING. (1) For the protection of human health and the environment, the secretary shall adopt rules for the comprehensive regulation of large on-site sewage systems, which includes, but is not limited to, the siting, design, construction, installation, maintenance, repair, and permitting of the systems.

(2) In adopting the rules, the secretary shall, in consultation with the department of ecology, require that large on-site sewage systems comply with the applicable sections of chapter 90.48 RCW regarding control and prevention of pollution of waters of the state, including but not limited to:

(a) Surface and ground water standards established under RCW 90.48.035; and

(b) Those provisions requiring all known, available, and reasonable methods of treatment.

(3) In adopting the rules, the secretary shall ensure that requirements for large on-site sewage systems are consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county.

NEW SECTION. Sec. 6. CIVIL PENALTIES. (1) A person who violates a law or rule regulating on-site sewage systems administered by the department is subject to a penalty of not more than ten thousand dollars per day for every violation. Every violation is a separate and distinct offense. In case of a continuing violation, each day's continuing violation is a separate and distinct violation. The penalty assessed must reflect the significance of the violation and the previous record of compliance on the part of the person responsible for compliance with on-site sewage system requirements.

(2) Every person who, through an act of commission or omission, procures, aids, or abets a violation is considered to have violated the provisions of this section and is subject to the penalty provided in this section.

(3) The penalty provided for in this section must be imposed by a notice in writing to the person against whom the civil penalty is assessed and must describe the violation. The notice must be personally served in the manner of service of a summons in a civil action or in a manner that shows proof of receipt. A penalty imposed by this section is due twenty-eight days after receipt of notice unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules.

(5) A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within thirty

days of service of the final administrative order shall pay, in addition to the amount of the penalty, interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid, commencing with the month in which the notice of penalty was served, and reasonable attorneys' fees as are incurred if civil enforcement of the final administrative order is required to collect the penalty.

(6) A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest-bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate, enter a judgment on behalf of the department and order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court or shall enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing. The judgment may award reasonable attorneys' fees for the cost of the attorney general's office in representing the department.

(7) If no appeal is taken from a final administrative order assessing a civil penalty under this chapter, the department may file a certified copy of the final administrative order with the clerk of the superior court in which the on-site sewage system is located or in Thurston county, and the clerk shall enter judgment in the name of the department and in the amount of the penalty assessed in the final administrative order.

(8) A judgment entered under subsection (6) or (7) of this section has the same force and effect as, and is subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(9) The large on-site sewage systems account is created in the custody of the state treasurer. All receipts from penalties imposed under this section shall be deposited into the account. Expenditures from the account shall be used by the department to provide training and technical assistance to on-site sewage system owners and operators. 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.

NEW SECTION. Sec. 7. INJUNCTIONS. Notwithstanding the existence or use of any other remedy, the department may bring an action to enjoin a violation or threatened violation of this chapter or rules adopted under this chapter. The department may bring the action in the superior court of the county in which the large on-site sewage system is located or in the superior court of Thurston county.

NEW SECTION. Sec. 8. The authority and duties created in this chapter are in addition to any authority and duties already provided in law. Nothing in this chapter limits the powers of the state or any political subdivision to exercise such authority.

PART 2

AMENDING CHAPTERS 70.118 AND 70.05 RCW TO ENHANCE LOCAL HEALTH OFFICER ENFORCEMENT AUTHORITY REGARDING ON-SITE SYSTEMS

NEW SECTION. Sec. 9. A new section is added to chapter 70.118 RCW to read as follows:

CIVIL PENALTIES. A local health officer who is responsible for administering and enforcing regulations regarding on-site sewage disposal systems is authorized to issue civil penalties for violations of those regulations under the same limitations and requirements imposed on the department under section 6 of this act, except that judgments shall be entered in the name of the local health jurisdiction and penalties shall be placed into the general fund or funds of the entity or entities operating the local health jurisdiction.

Sec. 10. RCW 70.05.070 and 1999 c 391 s 5 are each amended to read as follows:

The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

(1) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70.119A.030 and section 9 of this act, the confidentiality provisions in RCW 70.24.105 and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of health or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules of the state board of health;

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

PART 3

AMENDING STATE BOARD OF HEALTH RULE-MAKING AUTHORITY FOR ON-SITE SEWAGE SYSTEMS

Sec. 11. RCW 43.20.050 and 1993 c 492 s 489 are each amended to read as follows:

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

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

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

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

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

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

(iv) Be developed with the input of state health care agencies.

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

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

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

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

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

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

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

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

(iii) Public water system management and reporting requirements;

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

(v) Public water system operation and maintenance requirements;

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

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

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

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

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

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

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

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

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

~~((+))~~ (5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

~~((5))~~ (6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

PART 4

EXEMPTING OPERATORS

CERTIFIED BY THE DEPARTMENT OF HEALTH

Sec. 12. RCW 90.48.162 and 1972 ex.s. c 140 s 1 are each amended to read as follows:

Any county or any municipal or public corporation operating or proposing to operate a sewerage system, including any system which collects only domestic sewerage, which results in the disposal of waste material into the waters of the state shall procure a permit from the department of ecology before so disposing of such materials. This section is intended to extend the permit system of RCW 90.48.160 to counties and municipal or public corporations and the provisions of RCW 90.48.170 through ~~(90.48.210)~~ 90.48.200 and 90.52.040 shall be applicable to the permit requirement imposed under this section. A permit under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.-- RCW (sections 1 through 8 of this act) or for on-site sewage systems permitted by local health jurisdictions under rules of the state board of health.

Sec. 13. RCW 90.48.110 and 2002 c 161 s 5 are each amended to read as follows:

(1) Except under subsection (2) of this section, all engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the department, before construction thereof may begin. No approval shall be given until the department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter. Approval under this chapter is not required for large on-site sewage systems

permitted by the department of health under chapter 70.-- RCW (sections 1 through 8 of this act) or for on-site sewage systems regulated by local health jurisdictions under rules of the state board of health.

(2) To promote efficiency in service delivery and intergovernmental cooperation in protecting the quality of the state's waters, the department may delegate the authority for review and approval of engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems, to local units of government requesting such delegation and meeting criteria established by the department.

(3) For any new or revised general sewer plan submitted for review under this section, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general sewer plan. For rejections of plans or extensions of the timeline, the department shall provide in writing to the local government entity the reason for such action. In addition, the governing body of the local government entity and the department may mutually agree to an extension of the deadlines contained in this section.

PART 5
AMENDING RCW 36.94.010 TO CLARIFY ITS
APPLICABILITY TO
LARGE ON-SITE SEWAGE SYSTEMS

Sec. 14. RCW 36.94.010 and 1997 c 447 s 10 are each amended to read as follows:

As used in this chapter:

(1) A "system of sewerage" means and may include any or all of the following:

(a) Sanitary sewage collection, treatment, and/or disposal facilities and services, including without limitation on-site or off-site sanitary sewerage facilities, large on-site sewage systems defined under section 2 of this act, inspection services and maintenance services for private or public on-site systems, or any other means of sewage treatment and disposal approved by the county;

(b) Combined sanitary sewage disposal and storm or surface water drains and facilities;

(c) Storm or surface water drains, channels, and facilities;

(d) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;

(e) Combined water and sewerage systems;

(f) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a county;

(g) Public restroom and sanitary facilities;

(h) The facilities and services authorized in RCW 36.94.020; and

(i) Any combination of or part of any or all of such facilities.

(2) A "system of water" means and includes:

(a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;

(b) A combined water and sewerage system;

(c) Any combination of or any part of any or all of such facilities.

(3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a comprehensive plan.

(a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, channels, local service areas and a general description of the collection system to serve those areas, a description of on-site sanitary sewerage system inspection services and maintenance services, and other facilities and services as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility. The plan may also include a description of the regulations deemed appropriate to carrying out surface drainage plans.

(b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, and monitoring and control facilities as may be required to provide a functional and implementable plan.

(c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and, to the extent then known, shall further discuss the methods of distributing the cost and expense of the system and shall indicate the economic feasibility of plan implementation. The plans may also specify local or lateral facilities and services. The sewerage and/or water general plan does not mean the final engineering construction or financing plans for the system.

(4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a sewer or water system, any sewer, water, diking, or drainage district, any diking, drainage, and sewerage improvement district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners and/or the legislative authority of a home rule charter county.

NEW SECTION. **Sec. 15.** Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 16.** Captions and part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; McDonald; Priest and Walsh.

Passed to Committee on Rules for second reading.

April 2, 2007

SSB 5919 Prime Sponsor, Senate Committee on Financial Institutions & Insurance: Providing relief from retaliatory taxes on insurance premium taxes. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chairman; Hasegawa, Vice Chairman; Conway; Ericks; McIntire; Roach and Santos.

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

Passed to Committee on Rules for second reading.

March 31, 2007

SB 5926 Prime Sponsor, Senator Kohl-Welles: Creating a joint legislative task force to review the underground economy in the construction industry. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 5930 Prime Sponsor, Senate Committee on Ways & Means: Providing high quality, affordable health care to Washingtonians based on the recommendations of the blue ribbon commission on health care costs and access. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

"USE STATE PURCHASING TO IMPROVE HEALTH CARE QUALITY

NEW SECTION. Sec. 1. (1) The health care authority and the department of social and health services shall, by September 1, 2007, develop a five-year plan to change reimbursement within their health care programs to:

(a) Reward quality health outcomes rather than simply paying for the receipt of particular services or procedures;

(b) Pay for care that reflects patient preference and is of proven value;

(c) Require the use of evidence-based standards of care where available;

(d) Tie provider rate increases to measurable improvements in access to quality care;

(e) Direct enrollees to quality care systems;

(f) Better support primary care and provide a medical home to all enrollees through reimbursement policies that create incentives for providers to enter and remain in primary care practice and that address disparities in payment between specialty procedures and primary care services; and

(g) Pay for e-mail consultations, telemedicine, and telehealth where doing so reduces the overall cost of care.

(2) In developing any component of the plan that links payment to health care provider performance, the authority and the department shall work in collaboration with the department of health, health carriers, local public health jurisdictions, physicians and other health care providers, the Puget Sound health alliance, and other purchasers.

(3) The plan shall (a) identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress toward those goals will be measured; and (c) be submitted to the governor and the legislature upon completion. The agencies shall report to the legislature by September 1, 2007. Any component of the plan that links payment to health care provider performance must be submitted to the legislature for consideration prior to implementation by the department or the authority.

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

(1) The legislature finds that there is growing evidence that, for preference-sensitive care involving elective surgery, patient-practitioner communication is improved through the use of high-quality decision aids that detail the benefits, harms, and uncertainty of available treatment options. Improved communication leads to more fully informed patient decisions. The legislature intends to increase the extent to which patients make genuinely informed, preference-based treatment decisions, by promoting public/private collaborative efforts to broaden the development, certification, use, and evaluation of effective decision aids and by recognition of shared decision making and patient decision aids in the state's laws on informed consent.

(2) The health care authority shall:

(a) Work in collaboration with the health professions, contracting health carriers, nonproprietary public interest or

university-based research groups, and quality improvement organizations to increase awareness of appropriate, high-quality decision aids, and to train physicians and other practitioners in their use.

(b) In consultation with the national committee for quality assurance, or other decision aids certification body, identify a certification process for patient decision aids.

(c) Implement a shared decision-making demonstration project. The demonstration project shall be conducted at one or more multispecialty group practice sites providing state purchased health care in the state of Washington, and may include other practice sites providing state purchased health care. The demonstration project shall include the following elements:

(i) Incorporation into clinical practice of one or more decision aids for one or more identified preference-sensitive care areas combined with ongoing training and support of involved practitioners and practice teams, preferably at sites with necessary supportive health information technology; and

(ii) An evaluation of the impact of the use of shared decision making with decision aids, including the use of preference-sensitive health care services selected for the demonstration project and expenditures for those services, the impact on patients, including patient understanding of the treatment options presented and concordance between patient values and the care received, and patient and practitioner satisfaction with the shared decision-making process.

(3) The health care authority may solicit and accept funding to support the demonstration and evaluation.

Sec. 3. RCW 7.70.060 and 1975-'76 2nd ex.s. c 56 s 11 are each amended to read as follows:

(1) If a patient while legally competent, or his or her representative if he or she is not competent, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

((+)) (a) A description, in language the patient could reasonably be expected to understand, of:

((+)) (i) The nature and character of the proposed treatment;

((+)) (ii) The anticipated results of the proposed treatment;

((+)) (iii) The recognized possible alternative forms of treatment; and

((+)) (iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

((+)) (b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection ((+) of this section)).

(2) If a patient while legally competent, or his or her representative if he or she is not competent, signs an acknowledgement of shared decision making as described in this section, such acknowledgement shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgement of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as an alternative means of meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high-quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4) As used in this section, "patient decision aid" means a written, audio-visual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of scientific knowledge about outcomes, and that is certified by one or more national certifying organizations approved by the health care authority under section 2 of this act.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgement of shared decision making as set forth in subsection (2) of this section.

PREVENTION AND MANAGEMENT OF CHRONIC ILLNESS

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) The department of social and health services, in collaboration with the department of health, shall:

(a) Design and implement medical homes for its aged, blind, and disabled clients in conjunction with chronic care management programs to improve health outcomes, access, and cost-effectiveness. Programs must be evidence based, facilitating the use of information technology to improve quality of care, must acknowledge the role of primary care providers and include financial and other supports to enable these providers to effectively carry out their role in chronic care management, and must improve coordination of primary, acute, and long-term care for those clients with multiple chronic conditions. The department shall consider expansion of existing medical home and chronic care management programs and build on the Washington state collaborative initiative. The department shall use best practices in identifying those clients best served under a chronic care

management model using predictive modeling through claims or other health risk information; and

(b) Evaluate the effectiveness of current chronic care management efforts in the health and recovery services administration and the aging and disability services administration, comparison to best practices, and recommendations for future efforts and organizational structure to improve chronic care management.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high quality, accessible, and efficient care.

(b) "Chronic care management" means the department's program that provides care management and coordination activities for medical assistance clients determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

(a) Clinical information systems and sharing and organization of patient data;

(b) Decision support to promote evidence-based care;

(c) Clinical delivery system design;

(d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic health plan, and health plans offered through the public employees' benefits board.

NEW SECTION. Sec. 6. (1) The health care authority, in collaboration with the department of health, shall design and implement a medical home for chronically ill state employees enrolled in the state's self-insured uniform medical plan. Programs must be evidence based, facilitating the use of information technology to improve quality of care and must improve coordination of primary, acute, and long-term care for those enrollees with multiple chronic conditions. The authority shall consider expansion of existing medical home and chronic care management programs. The authority shall use best practices in identifying those employees best served under a chronic care management model using predictive modeling through claims or other health risk information.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high-quality, accessible, and efficient care.

(b) "Chronic care management" means the authority's program that provides care management and coordination activities for health plan enrollees determined to be at risk for high medical costs.

"Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

Sec. 7. RCW 70.83.040 and 2005 c 518 s 938 are each amended to read as follows:

When notified of positive screening tests, the state department of health shall offer the use of its services and facilities, designed to prevent mental retardation or physical defects in such children, to the attending physician, or the parents of the newborn child if no attending physician can be identified.

The services and facilities of the department, and other state and local agencies cooperating with the department in carrying out programs of detection and prevention of mental retardation and physical defects shall be made available to the family and physician to the extent required in order to carry out the intent of this chapter and within the availability of funds. ~~((The department has the authority to collect a reasonable fee, from the parents or other responsible party of each infant screened to fund specialty clinics that provide treatment services for hemoglobin diseases, phenylketonuria, congenital adrenal hyperplasia, congenital hypothyroidism, and, during the 2005-07 fiscal biennium, other disorders defined by the board of health under RCW 70.83.020. The fee may be collected through the facility where the screening specimen is obtained.))~~

NEW SECTION. Sec. 8. A new section is added to chapter 70.83 RCW to read as follows:

The department has the authority to collect a fee of three dollars and fifty cents from the parents or other responsible party of each infant screened for congenital disorders as defined by the state board of health under RCW 70.83.020 to fund specialty clinics that provide treatment services for those with the defined disorders. The fee may be collected through the facility where a screening specimen is obtained.

COST AND QUALITY INFORMATION FOR CONSUMERS AND PROVIDERS

NEW SECTION. Sec. 9. A new section is added to chapter 41.05 RCW to read as follows:

The Washington state quality forum is established within the authority. In collaboration with the Puget Sound health alliance and other local organizations, the forum shall:

(1) Collect and disseminate research regarding health care quality, evidence-based medicine, and patient safety to promote best practices, in collaboration with the technology assessment program and the prescription drug program;

(2) Coordinate the collection of health care quality data among state health care purchasing agencies;

(3) Adopt a set of measures to evaluate and compare health care cost and quality and provider performance;

(4) Identify and disseminate information regarding variations in clinical practice patterns across the state; and

(5) Produce an annual quality report detailing clinical practice patterns for purchasers, providers, insurers, and policy makers. The agencies shall report to the legislature by September 1, 2007.

NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW to read as follows:

(1) The administrator shall design and pilot a consumer-centric health information infrastructure and the first health record banks that

will facilitate the secure exchange of health information when and where needed and shall:

(a) Complete the plan of initial implementation, including but not limited to determining the technical infrastructure for health record banks and the account locator service, setting criteria and standards for health record banks, and determining oversight of health record banks;

(b) Implement the first health record banks in pilot sites as funding allows;

(c) Involve health care consumers in meaningful ways in the design, implementation, oversight, and dissemination of information on the health record bank system; and

(d) Promote adoption of electronic medical records and health information exchange through continuation of the Washington health information collaborative, and by working with private payors and other organizations in restructuring reimbursement to provide incentives for providers to adopt electronic medical records in their practices.

(2) The administrator may establish an advisory board, a stakeholder committee, and subcommittees to assist in carrying out the duties under this section. The administrator may reappoint health information infrastructure advisory board members to assure continuity and shall appoint any additional representatives that may be required for their expertise and experience.

(a) The administrator shall appoint the chair of the advisory board, chairs, and co-chairs of the stakeholder committee, if formed;

(b) Meetings of the board, stakeholder committee, and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(l), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential unpublished information; and

(c) The members of the board, stakeholder committee, and any advisory group:

(i) Shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest as a condition of appointment;

(ii) Are immune from civil liability for any official acts performed in good faith as members of the board, stakeholder committee, or any advisory group.

(3) Members of the board may be compensated for participation in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board. Members of the stakeholder committee shall not receive compensation but shall be reimbursed under RCW 43.03.050 and 43.03.060.

(4) The administrator may work with public and private entities to develop and encourage the use of personal health records which are portable, interoperable, secure, and respectful of patients' privacy.

(5) The administrator may enter into contracts to issue, distribute, and administer grants that are necessary or proper to carry out this section.

Sec. 11. RCW 43.70.110 and 2006 c 72 s 3 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 (~~RCW 18.79.202, until June 30, 2013, and except for the cost of regulating retired volunteer medical workers in accordance with RCW 18.130.360~~) subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

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

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

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

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of section 12 of this act.

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

NEW SECTION. Sec. 12. A new section is added to chapter 43.70 RCW to read as follows:

Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009.

REDUCING UNNECESSARY EMERGENCY ROOM USE

Sec. 13. RCW 41.05.220 and 1998 c 245 s 38 are each amended to read as follows:

(1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The administrator of the health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner.

The administrator shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data.

(3) In contracting with community health centers to provide primary health and dental services, migrant health services, and maternity health care services under subsection (1) of this section the authority shall give priority to those community health centers working with local hospitals, local community health collaboratives, and/or local public health jurisdictions to successfully reduce unnecessary emergency room use.

NEW SECTION. Sec. 14. The Washington state health care authority and the department of social and health services shall report to the legislature by December 1, 2007, on recent trends in unnecessary emergency room use by enrollees in state purchased health care programs that they administer and the uninsured, and then partner with community organizations and local health care providers to design a demonstration pilot to reduce such unnecessary visits.

NEW SECTION. Sec. 15. A new section is added to chapter 41.05 RCW to read as follows:

In collaboration with the department of social and health services, the administrator shall provide all persons enrolled in health plans under this chapter and chapter 70.47 RCW with access to a twenty-four hour, seven day a week nurse hotline.

NEW SECTION. Sec. 16. A new section is added to chapter 74.09 RCW to read as follows:

In collaboration with the health care authority, the department shall provide all persons receiving services under this chapter with access to a twenty-four hour, seven day a week nurse hotline. The health care authority and the department of social and health services shall determine the most appropriate way to provide the nurse hotline under section 15 of this act and this section, which may include use of the 211 system established in chapter 43.211 RCW.

REDUCE HEALTH CARE ADMINISTRATIVE COSTS

NEW SECTION. Sec. 17. By September 1, 2007, the insurance commissioner shall provide a report to the governor and the legislature that identifies the key contributors to health care administrative costs and evaluates opportunities to reduce them, including suggested changes to state law. The report shall be completed in collaboration with health care providers, carriers, state health purchasing agencies, the Washington healthcare forum, and other interested parties.

COVERAGE FOR DEPENDENTS TO AGE TWENTY-FIVE

NEW SECTION. Sec. 18. A new section is added to chapter 41.05 RCW to read as follows:

(1) Any plan offered to employees under this chapter must offer each employee the option of covering any unmarried dependent of the employee under the age of twenty-five.

(2) Any employee choosing under subsection (1) of this section to cover a dependent who is: (a) Age twenty through twenty-three

and not a registered student at an accredited secondary school, college, university, vocational school, or school of nursing; or (b) age twenty-four, shall be required to pay the full cost of such coverage.

(3) Any employee choosing under subsection (1) of this section to cover a dependent with disabilities, developmental disabilities, mental illness, or mental retardation, who is incapable of self-support, may continue covering that dependent under the same premium and payment structure as for dependents under the age of twenty, irrespective of age.

NEW SECTION. Sec. 19. A new section is added to chapter 48.20 RCW to read as follows:

Any disability insurance contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 20. A new section is added to chapter 48.21 RCW to read as follows:

Any group disability insurance contract or blanket disability insurance contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 21. A new section is added to chapter 48.44 RCW to read as follows:

(1) Any individual health care service plan contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health care service plan contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 22. A new section is added to chapter 48.46 RCW to read as follows:

(1) Any individual health maintenance agreement that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health maintenance agreement that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

SUSTAINABILITY AND ACCESS TO PUBLIC PROGRAMS

NEW SECTION. Sec. 23. (1) The department of social and health services shall develop a series of options that require federal waivers and state plan amendments to expand coverage and leverage federal and state resources for the state's basic health program, for the medical assistance program, as codified at Title XIX of the federal social security act, and the state's children's health insurance program, as codified at Title XXI of the federal social security act. The department shall propose options including but not limited to:

(a) Offering alternative benefit designs to promote high quality care, improve health outcomes, and encourage cost-effective treatment options and redirect savings to finance additional coverage;

(b) Creation of a health opportunity account demonstration program for individuals eligible for transitional medical benefits. When a participant in the health opportunity account demonstration program satisfies his or her deductible, the benefits provided shall be those included in the medicaid benefit package in effect during the period of the demonstration program; and

(c) Promoting private health insurance plans and premium subsidies to purchase employer-sponsored insurance wherever possible, including federal approval to expand the department's employer-sponsored insurance premium assistance program to enrollees covered through the state's children's health insurance program.

(2) Prior to submitting requests for federal waivers or state plan amendments, the department shall consult with and seek input from stakeholders and other interested parties.

(3) The department of social and health services, in collaboration with the Washington state health care authority, shall ensure that enrollees are not simultaneously enrolled in the state's basic health program and the medical assistance program or the state's children's health insurance program to ensure coverage for the maximum number of people within available funds. Priority enrollment in the basic health program shall be given to those who disenrolled from the program in order to enroll in medicaid, and subsequently became ineligible for medicaid coverage.

NEW SECTION. Sec. 24. A new section is added to chapter 48.43 RCW to read as follows:

When the department of social and health services determines that it is cost-effective to enroll a person eligible for medical assistance under chapter 74.09 RCW in an employer-sponsored health plan, a carrier shall permit the enrollment of the person in the health plan for which he or she is otherwise eligible without regard to any open enrollment period restrictions.

REINSURANCE

NEW SECTION. Sec. 25. (1) The office of financial management, in collaboration with the office of the insurance commissioner, shall evaluate options and design a state-supported reinsurance program to address the impact of high cost enrollees in the individual and small group health insurance markets, and submit implementing legislation and supporting information, including financing options, to the governor and the legislature by December 1, 2007. In designing the program, the office of financial management shall:

(a) Estimate the quantitative impact on premium savings, premium stability over time and across groups of enrollees, individual and employer take-up, number of uninsured, and government costs associated with a government-funded stop-loss insurance program, including distinguishing between one-time premium savings and savings in subsequent years. In evaluating the various reinsurance models, evaluate and consider (i) the reduction in total health care costs to the state and private sector, and (ii) the reduction in individual premiums paid by employers, employees, and individuals;

(b) Identify all relevant design issues and alternative options for each issue. At a minimum, the evaluation shall examine (i) a reinsurance corridor of ten thousand dollars to ninety thousand dollars, and a reimbursement of ninety percent; (ii) the impacts of providing reinsurance for all small group products or a subset of products; and (iii) the applicability of a chronic care program such as the approach used by the department of labor and industries with the centers of occupational health and education. Where quantitative impacts cannot be estimated, the office of financial management shall assess qualitative impacts of design issues and their options, including potential disincentives for reducing premiums, achieving premium stability, sustaining/increasing take-up, decreasing the

number of uninsured, and managing government's stop-loss insurance costs;

(c) Identify market and regulatory changes needed to maximize the chance of the program achieving its policy goals, including how the program will relate to other coverage programs and markets. Design efforts shall coordinate with other design efforts targeting small group programs that may be directed by the legislature, as well as other approaches examining alternatives to managing risk;

(d) Address conditions under which overall expenditures could increase as a result of a government-funded stop-loss program and options to mitigate those conditions, such as passive versus aggressive use of disease and care management programs by insurers;

(e) Determine whether the Washington state health insurance pool should be retained, and if so, develop options for additional sources of funding;

(f) Evaluate, and quantify where possible, the behavioral responses of insurers to the program including impacts on insurer premiums and practices for settling legal disputes around large claims; and

(g) Provide alternatives for transitioning from the status quo and, where applicable, alternatives for phasing in some design elements, such as threshold or corridor levels, to balance government costs and premium savings.

(2) Within funds specifically appropriated for this purpose, the office of financial management may contract with actuaries and other experts as necessary to meet the requirements of this section.

THE WASHINGTON STATE HEALTH INSURANCE POOL AND THE BASIC HEALTH PLAN

Sec. 26. RCW 48.41.110 and 2001 c 196 s 4 are each amended to read as follows:

(1) The pool shall offer one or more care management plans of coverage. Such plans may, but are not required to, include point of service features that permit participants to receive in-network benefits or out-of-network benefits subject to differential cost shares. ~~((Covered persons enrolled in the pool on January 1, 2001, may continue coverage under the pool plan in which they are enrolled on that date. However,))~~ The pool may incorporate managed care features and encourage enrollees to participate in chronic care and disease management and evidence-based protocols into ~~((such))~~ existing plans.

(2) The administrator shall prepare a brochure outlining the benefits and exclusions of ~~((the))~~ pool ~~((policy))~~ policies in plain language. After approval by the board, such brochure shall be made reasonably available to participants or potential participants.

(3) The health insurance ~~((policy))~~ policies issued by the pool shall pay only reasonable amounts for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of covered illnesses, injuries, and conditions ~~((which are not otherwise limited or excluded))~~. Eligible expenses are the reasonable amounts for the health care services and items for which benefits are extended under ~~((the))~~ a pool policy. ~~((Such benefits shall at minimum include, but not be limited to, the following services or related items:))~~

(4) The pool shall offer at least two policies, one of which at a minimum includes, but is not limited to, the following services or related items:

(a) Hospital services, including charges for the most common semiprivate room, for the most common private room if semiprivate rooms do not exist in the health care facility, or for the private room if medically necessary, ~~((but limited to))~~ including no less than a total

of one hundred eighty inpatient days in a calendar year, and ~~((limited to))~~ no less than thirty days inpatient care for mental and nervous conditions, or alcohol, drug, or chemical dependency or abuse per calendar year;

(b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers;

(c) ~~((The first))~~ No less than twenty outpatient professional visits for the diagnosis or treatment of one or more mental or nervous conditions or alcohol, drug, or chemical dependency or abuse rendered during a calendar year by one or more physicians, psychologists, or community mental health professionals, or, at the direction of a physician, by other qualified licensed health care practitioners, in the case of mental or nervous conditions, and rendered by a state certified chemical dependency program approved under chapter 70.96ARCW, in the case of alcohol, drug, or chemical dependency or abuse;

(d) Drugs and contraceptive devices requiring a prescription;

(e) Services of a skilled nursing facility, excluding custodial and convalescent care, for not ~~((more))~~ less than one hundred days in a calendar year as prescribed by a physician;

(f) Services of a home health agency;

(g) Chemotherapy, radioisotope, radiation, and nuclear medicine therapy;

(h) Oxygen;

(i) Anesthesia services;

(j) Prostheses, other than dental;

(k) Durable medical equipment which has no personal use in the absence of the condition for which prescribed;

(l) Diagnostic x-rays and laboratory tests;

(m) Oral surgery ~~((limited to))~~ including at least the following: Fractures of facial bones; excisions of mandibular joints, lesions of the mouth, lip, or tongue, tumors, or cysts excluding treatment for temporomandibular joints; incision of accessory sinuses, mouth salivary glands or ducts; dislocations of the jaw; plastic reconstruction or repair of traumatic injuries occurring while covered under the pool; and excision of impacted wisdom teeth;

(n) Maternity care services;

(o) Services of a physical therapist and services of a speech therapist;

(p) Hospice services;

(q) Professional ambulance service to the nearest health care facility qualified to treat the illness or injury; and

(r) Other medical equipment, services, or supplies required by physician's orders and medically necessary and consistent with the diagnosis, treatment, and condition.

~~((4))~~ (5) The board shall design and employ cost containment measures and requirements such as, but not limited to, care coordination, provider network limitations, preadmission certification, and concurrent inpatient review which may make the pool more cost-effective.

~~((5))~~ (6) The pool benefit policy may contain benefit limitations, exceptions, and cost shares such as copayments, coinsurance, and deductibles that are consistent with managed care products, except that differential cost shares may be adopted by the board for nonnetwork providers under point of service plans. ~~((The pool benefit policy cost shares and limitations must be consistent with those that are generally included in health plans approved by the insurance commissioner; however;))~~ No limitation, exception, or

reduction may be used that would exclude coverage for any disease, illness, or injury.

~~((6))~~ (7) The pool may not reject an individual for health plan coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a six-month benefit waiting period for preexisting conditions for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services. The pool may not avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. Credit against the waiting period shall be as provided in subsection ~~((7))~~ (8) of this section.

~~((7))~~ (8)(a) Except as provided in (b) of this subsection, the pool shall credit any preexisting condition waiting period in its plans for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the new pool plan. For the person previously enrolled in a group health benefit plan, the pool must credit the aggregate of all periods of preceding coverage not separated by more than sixty-three days toward the waiting period of the new health plan. For the person previously enrolled in an individual health benefit plan other than a catastrophic health plan, the pool must credit the period of coverage the person was continuously covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(b) The pool shall waive any preexisting condition waiting period for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

~~((8))~~ (9) If an application is made for the pool policy as a result of rejection by a carrier, then the date of application to the carrier, rather than to the pool, should govern for purposes of determining preexisting condition credit.

(10) The pool shall contract with organizations that provide care management that has been demonstrated to be effective and shall encourage enrollees who are eligible for care management services to participate.

Sec. 27. RCW 48.41.160 and 1987 c 431 s 16 are each amended to read as follows:

(1) ((A pool policy offered under this chapter shall contain provisions under which the pool is obligated to renew the policy until the day on which the individual in whose name the policy is issued first becomes eligible for medicare coverage. At that time, coverage of dependents shall terminate if such dependents are eligible for coverage under a different health plan. Dependents who become eligible for medicare prior to the individual in whose name the policy is issued, shall receive benefits in accordance with RCW 48.41.150)) On or before December 31, 2007, the pool shall cancel all existing pool policies and replace them with policies that are identical to the existing policies except for the inclusion of a provision providing for a guarantee of the continuity of coverage consistent with this section. As a means to minimize the number of policy changes for enrollees, replacement policies provided under this subsection also may include the plan modifications authorized in RCW 48.41.110 and 48.41.120.

(2) A pool policy shall contain a guarantee of the individual's right to continued coverage, subject to the provisions of subsections (4) and (5) of this section.

(3) The guarantee of continuity of coverage required by this section shall not prevent the pool from canceling or nonrenewing a policy for:

(a) Nonpayment of premium;

(b) Violation of published policies of the pool;

(c) Failure of a covered person who becomes eligible for medicare benefits by reason of age to apply for a pool medical supplement plan, or a medicare supplement plan or other similar plan offered by a carrier pursuant to federal laws and regulations;

(d) Failure of a covered person to pay any deductible or copayment amount owed to the pool and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the pool;

(f) Covered persons materially breaching the pool policy; or

(g) Changes adopted to federal or state laws when such changes no longer permit the continued offering of such coverage.

(4)(a) The guarantee of continuity of coverage provided by this section requires that if the pool replaces a plan, it must make the replacement plan available to all individuals in the plan being replaced. The replacement plan must include all of the services covered under the replaced plan, through unreasonable cost-sharing requirements or otherwise. The pool may also allow individuals who are covered by a plan that is being replaced an unrestricted right to transfer to a fully comparable plan.

(b) The guarantee of continuity of coverage provided by this section requires that if the pool discontinues offering a plan: (i) The pool must provide notice to each individual of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the pool must offer to each individual provided coverage under the discontinued plan the option to enroll in any other plan currently offered by the pool for which the individual is otherwise eligible; and (iii) in exercising the option to discontinue a plan and in offering the option of coverage under (b)(ii) of this subsection, the pool must act uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage.

(c) The pool cannot replace a plan under this subsection until it has completed an evaluation of the impact of replacing the plan upon:

(i) The cost and quality of care to pool enrollees;

(ii) Pool financing and enrollment;

(iii) The board's ability to offer comprehensive and other plans to its enrollees;

(iv) Other items identified by the board.

In its evaluation, the board must request input from the constituents represented by the board members.

(d) The guarantee of continuity of coverage provided by this section does not apply if the pool has zero enrollment in a plan.

(5) The pool may not change the rates for pool policies except on a class basis, with a clear disclosure in the policy of the pool's right to do so.

((3)) (6) A pool policy offered under this chapter shall provide that, upon the death of the individual in whose name the policy is issued, every other individual then covered under the policy may elect, within a period specified in the policy, to continue coverage under the same or a different policy.

Sec. 28. RCW 48.41.200 and 2000 c 79 s 17 are each amended to read as follows:

(1) The pool shall determine the standard risk rate by calculating the average individual standard rate charged for coverage comparable to pool coverage by the five largest members, measured in terms of individual market enrollment, offering such coverages in the state. In the event five members do not offer comparable coverage, the standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage in the individual market.

(2) Subject to subsection (3) of this section, maximum rates for pool coverage shall be as follows:

(a) Maximum rates for a pool indemnity health plan shall be one hundred fifty percent of the rate calculated under subsection (1) of this section;

(b) Maximum rates for a pool care management plan shall be one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(c) Maximum rates for a person eligible for pool coverage pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during the sixty-three day period immediately prior to the date of application for pool coverage in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005, where such coverage was continuous for at least eighteen months, shall be:

(i) For a pool indemnity health plan, one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(ii) For a pool care management plan, one hundred ten percent of the rate calculated under subsection (1) of this section.

(3)(a) Subject to (b) and (c) of this subsection:

(i) The rate for any person (~~aged fifty to sixty-four~~) whose current gross family income is less than two hundred fifty-one percent of the federal poverty level shall be reduced by thirty percent from what it would otherwise be;

(ii) The rate for any person (~~aged fifty to sixty-four~~) whose current gross family income is more than two hundred fifty but less than three hundred one percent of the federal poverty level shall be reduced by fifteen percent from what it would otherwise be;

(iii) The rate for any person who has been enrolled in the pool for more than thirty-six months shall be reduced by five percent from what it would otherwise be.

(b) In no event shall the rate for any person be less than one hundred ten percent of the rate calculated under subsection (1) of this section.

(c) Rate reductions under (a)(i) and (ii) of this subsection shall be available only to the extent that funds are specifically appropriated for this purpose in the omnibus appropriations act.

Sec. 29. RCW 48.41.037 and 2000 c 79 s 36 are each amended to read as follows:

The Washington state health insurance pool account is created in the custody of the state treasurer. All receipts from moneys specifically appropriated to the account must be deposited in the account. Expenditures from this account shall be used to cover deficits incurred by the Washington state health insurance pool under this chapter in excess of the threshold established in this section. To the extent funds are available in the account, funds shall be expended from the account to offset that portion of the deficit that would otherwise have to be recovered by imposing an assessment on members in excess of a threshold of seventy cents per insured person per month. The commissioner shall authorize expenditures from the account, to the extent that funds are available in the account, upon certification by the pool board that assessments will exceed the threshold level established in this section. The account is subject to

the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Whether the assessment has reached the threshold of seventy cents per insured person per month shall be determined by dividing the total aggregate amount of assessment by the proportion of total assessed members. Thus, stop loss members shall be counted as one-tenth of a whole member in the denominator given that is the amount they are assessed proportionately relative to a fully insured medical member.

Sec. 30. RCW 48.41.100 and 2001 c 196 s 3 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out ~~((one))~~ two million dollars in benefits;

(c) Inmates of public institutions and persons whose benefits are duplicated under public programs. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

Sec. 31. RCW 48.41.120 and 2000 c 79 s 14 are each amended to read as follows:

(1) Subject to the limitation provided in subsection (3) of this section, a pool policy offered in accordance with RCW 48.41.110(3) shall impose a deductible. Deductibles of five hundred dollars and one thousand dollars on a per person per calendar year basis shall initially be offered. The board may authorize deductibles in other amounts. The deductible shall be applied to the first five hundred dollars, one thousand dollars, or other authorized amount of eligible expenses incurred by the covered person.

(2) Subject to the limitations provided in subsection (3) of this section, a mandatory coinsurance requirement shall be imposed at ~~((the))~~ a rate ~~((of))~~ not to exceed twenty percent of eligible expenses in excess of the mandatory deductible and which supports the efficient delivery of high quality health care services for the medical conditions of pool enrollees.

(3) The maximum aggregate out of pocket payments for eligible expenses by the insured in the form of deductibles and coinsurance under a pool policy offered in accordance with RCW 48.41.110(3) shall not exceed in a calendar year:

(a) One thousand five hundred dollars per individual, or three thousand dollars per family, per calendar year for the five hundred dollar deductible policy;

(b) Two thousand five hundred dollars per individual, or five thousand dollars per family per calendar year for the one thousand dollar deductible policy; or

(c) An amount authorized by the board for any other deductible policy.

(4) Except for those enrolled in a high deductible health plan qualified under federal law for use with a health savings account,

eligible expenses incurred by a covered person in the last three months of a calendar year, and applied toward a deductible, shall also be applied toward the deductible amount in the next calendar year.

(5) The board may modify cost-sharing as an incentive for enrollees to participate in care management services and other cost-effective programs and policies.

Sec. 32. RCW 48.43.005 and 2006 c 25 s 16 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand ~~((five))~~ seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least ~~((five))~~ six thousand ((five hundred)) dollars, both amounts to be adjusted annually by the insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

In July, 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. The adjusted amount shall apply on the following January 1st.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In

determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor must derive at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

Sec. 33. RCW 48.41.190 and 1989 c 121 s 10 are each amended to read as follows:

~~(Neither the participation by members, the establishment of rates, forms, or procedures for coverages issued by the pool, nor any other joint or collective action required by this chapter or the state of Washington shall be the basis of any legal action, civil or criminal liability or penalty against the pool, any member of the board of directors, or members of the pool either jointly or separately.)~~ The pool, members of the pool, board directors of the pool, officers of the pool, employees of the pool, the commissioner, the commissioner's representatives, and the commissioner's employees shall not be civilly or criminally liable and shall not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this chapter. Nothing in this section prohibits legal actions against the pool to enforce the pool's statutory or contractual duties or obligations.

Sec. 34. RCW 41.05.075 and 2006 c 103 s 3 are each amended to read as follows:

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through

self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

(c) Is timely to the state budgetary process; and

(d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including:

(a) Subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter; and

(b) Subscriber or member demographic and claims data necessary to implement performance measures or financial incentives related to performance under subsection (7) of this section.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) The administrator shall, in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(a) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(i) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(ii) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(b) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020(4), integrated delivery systems, and providers that:

(i) Facilitate diagnosis or treatment;

(ii) Reduce unnecessary duplication of medical tests;

(iii) Promote efficient electronic physician order entry;

(iv) Increase access to health information for consumers and their providers; and

(v) Improve health outcomes;

(c) Coordinate a strategy for the adoption of health information technology systems using the final health information technology report and recommendations developed under chapter 261, Laws of 2005.

(8) The administrator may permit the Washington state health insurance pool to contract to utilize any network maintained by the authority or any network under contract with the authority.

Sec. 35. RCW 70.47.020 and 2005 c 188 s 2 are each amended to read as follows:

As used in this chapter:

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

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

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

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

(5) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(6) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

~~((a))~~ (i) Who is not eligible for medicare;

~~((b))~~ (ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator;

~~((c))~~ (iii) Who is not a full-time student who has received a temporary visa to study in the United States;

~~((d))~~ (iv) Who resides in an area of the state served by a managed health care system participating in the plan;

~~((e))~~ (v) Whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

~~((f))~~ (vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan(-);

(b) An individual who meets the requirements in (a)(i) through (iv) and (vi) of this subsection and who is a foster parent licensed

under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

~~(c)~~ To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, ~~((“subsidized enrollee” also means))~~ an individual, or an individual's spouse or dependent children, who meets the requirements in ~~(a)(i)~~ through ~~((†)) (iv)~~ and ~~((†)) (vi)~~ of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

(7) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; ~~((†)) (e)~~ who chooses to obtain basic health care coverage from a particular managed health care system; and ~~((†)) (f)~~ who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

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

(9) "Premium" means a periodic payment, ~~((based upon gross family income))~~ which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

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

Sec. 36. RCW 70.47.060 and 2006 c 343 s 9 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule

of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (11) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (12) of this section.

(b) To determine the periodic premiums due the administrator from subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for foster parents with gross family income up to two hundred percent of the federal poverty level shall be set at the minimum premium amount charged to enrollees with income below sixty-five percent of the federal poverty level. Premiums due for foster parents with gross family income between two hundred percent and three hundred percent of the federal poverty level shall not exceed one hundred dollars per month.

~~(c)~~ To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

~~((†)) (d)~~ To determine the periodic premiums due the administrator from health coverage tax credit eligible enrollees. Premiums due from health coverage tax credit eligible enrollees must be in an amount equal to the cost charged by the managed health care system provider to the state for the plan, plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201. The administrator will consider the impact of eligibility determination by the appropriate federal agency designated by the Trade Act of 2002 (P.L. 107-210) as well as the premium collection and remittance activities by the United States internal revenue service when determining the administrative cost charged for health coverage tax credit eligible enrollees.

~~((†)) (e)~~ An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

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

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

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

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

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

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

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

(9) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(10) To receive periodic premiums from or on behalf of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized, nonsubsidized, or health coverage tax credit eligible enrollees, to give priority to members of the Washington national guard and reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(12) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the

systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(14) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(15) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(16) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

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

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

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

Sec. 37. RCW 48.43.018 and 2004 c 244 s 3 are each amended to read as follows:

(1) Except as provided in (a) through (e) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her

provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her receiving notice that his or her coverage under a conversion contract is discontinued, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of discontinuation of eligibility under the conversion contract. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such conversion contract if application is made within ninety days prior to the date eligibility under the conversion contract would be discontinued and the effective date of the individual coverage applied for is the date eligibility under the conversion contract would be discontinued, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan ~~((and, but for the number of persons employed by his or her employer, would have qualified for))~~ or enrollment in the basic health plan as a nonsubsidized enrollee following disenrollment from a health plan that is exempt from continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) ~~((Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii)))~~ The person had at least twenty-four months of continuous group coverage including church plans immediately prior to ((the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if)) disenrollment; (ii) application is made no more than ninety days prior to the date of ~~((a qualifying event))~~ disenrollment; and (iii) the effective date of the individual coverage applied for is the date of ~~((the qualifying event))~~ disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan:

(a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 38. RCW 43.70.670 and 2003 c 274 s 2 are each amended to read as follows:

(1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the department of social and health services as defined in RCW 74.09.010(8) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985, group health insurance policies, or individual policies. ~~((The number of insurance policies supported by this program in the Washington state health insurance pool as defined in RCW 48.41.030(18) shall not grow beyond the July 1, 2003, level.))~~

PREVENTION AND HEALTH PROMOTION

NEW SECTION. Sec. 39. (1) The Washington state health care authority, the department of social and health services, the department of labor and industries, and the department of health shall, by September 1, 2007, develop a five-year plan to integrate disease and accident prevention and health promotion into state purchased health programs that they administer by:

(a) Structuring benefits and reimbursements to promote healthy choices and disease and accident prevention;

(b) Encouraging enrollees in state health programs to complete a health assessment, and providing appropriate follow up;

(c) Reimbursing for cost-effective prevention activities; and

(d) Developing prevention and health promotion contracting standards for state programs that contract with health carriers.

(2) The plan shall: (a) Identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress towards those goals will be measured and reported; and (c) be submitted to the governor and the legislature upon completion.

Sec. 40. RCW 41.05.540 and 2005 c 360 s 8 are each amended to read as follows:

(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)) shall establish and maintain a state employee health program focused on reducing the health risks and improving the health status of state employees, dependents, and retirees enrolled in the public employees' benefits board. The program shall use public and private sector best practices to achieve goals of measurable health outcomes, measurable productivity improvements, positive impact on the cost of medical care, and positive return on investment. The program shall establish standards for health promotion and disease prevention activities, and develop a mechanism to update standards as evidence-based research brings new information and best practices forward.~~

~~— (2) The state employee health program shall:~~

~~— (a) Provide technical assistance and other services as needed to wellness staff in all state agencies and institutions of higher education;~~

~~— (b) Develop effective communication tools and ongoing training for wellness staff;~~

~~— (c) Contract with outside vendors for evaluation of program goals;~~

~~— (d) Strongly encourage the widespread completion of online health assessment tools for all state employees, dependents, and retirees. The health assessment tool must be voluntary and confidential. Health assessment data and claims data shall be used to:~~

~~— (i) Engage state agencies and institutions of higher education in providing evidence-based programs targeted at reducing identified health risks;~~

~~— (ii) Guide contracting with third-party vendors to implement behavior change tools for targeted high-risk populations; and~~

(iii) Guide the benefit structure for state employees, dependents, and retirees to include covered services and medications known to manage and reduce health risks.

(3) The health care authority shall report to the legislature in December 2008 and December 2010 on outcome goals for the employee health program.

NEW SECTION. Sec. 41. A new section is added to chapter 41.05 RCW to read as follows:

(1) The health care authority through the state employee health program shall implement a state employee health demonstration project. The agencies selected must: (a) Show a high rate of health risk assessment completion; (b) document an infrastructure capable of implementing employee health programs using current and emerging best practices; (c) show evidence of senior management support; and (d) together employ a total of no more than eight thousand employees who are enrolled in health plans of the public employees' benefits board. Demonstration project agencies shall operate employee health programs for their employees in collaboration with the state employee health program.

(2) Agency demonstration project employee health programs:

(a) Shall include but are not limited to the following key elements: Outreach to all staff with efforts made to reach the largest percentage of employees possible; awareness-building information that promotes health; motivational opportunities that encourage employees to improve their health; behavior change opportunities that demonstrate and support behavior change; and tools to improve employee health care decisions;

(b) Must have wellness staff with direct accountability to agency senior management;

(c) Shall initiate and maintain employee health programs using current and emerging best practices in the field of health promotion;

(d) May offer employees such incentives as cash for completing health risk assessments, free preventive screenings, training in behavior change tools, improved nutritional standards on agency campuses, bike racks, walking maps, on-site weight reduction programs, and regular communication to promote personal health awareness.

(3) The state employee health program shall evaluate each of the four programs separately and compare outcomes for each of them with the entire state employee population to assess effectiveness of the programs. Specifically, the program shall measure at least the following outcomes in the demonstration population: The reduction in the percent of the population that is overweight or obese, the reduction in risk factors related to diabetes, the reduction in risk factors related to absenteeism, the reduction in tobacco consumption, and the increase in appropriate use of preventive health services. The state employee health program shall report to the legislature in December 2008 and December 2010 on the demonstration project.

(4) This section expires June 30, 2011.

PRESCRIPTION MONITORING PROGRAM

NEW SECTION. Sec. 42. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Authority" means the Washington state health care authority.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

NEW SECTION. Sec. 43. (1) To the extent that funding is available through federal or private grants, or is appropriated by the legislature, the authority shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and over-prescribing of controlled substances, and improving controlled substance prescribing practices. As much as possible, the authority should establish a common database with other states.

(2) Except as provided in subsection (5) of this section, each dispenser shall submit to the authority by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than immediate one day use should be immediately reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3) It is the intent of the legislature to establish an electronic database available in real time to dispensers and prescribers of controlled substances. And further, that the authority in as much as possible should establish a common dataset with other states.

(4) Each dispenser shall immediately submit the information in accordance with transmission methods established by the authority.

(5) The data submission requirements of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution.

(6) The authority shall seek federal grants to support the activities described in this act. As state and federal funds are available, the authority shall develop and implement the prescription monitoring program. The authority may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation of the system.

NEW SECTION. Sec. 44. To the extent that funding is available through federal or private grants, or is appropriated by the legislature, the authority shall submit an implementation plan to the legislature within six months of receipt of funding under this subsection that builds upon the prescription monitoring program established in this chapter. The plan shall expand the information included in the prescription drug monitoring program to include information related to all legend drugs, as defined in RCW 69.41.010(12), dispensed or paid for through fee-for-service or managed care contracting, on behalf of persons receiving health care services through state-purchased health care programs administered by the authority, the department of social and health services, the department of labor and industries, and the department of corrections. The implementation plan shall be designed to improve the quality of state-purchased health services by reducing legend drug abuse, reducing duplicative prescribing and over-prescribing of legend drugs, and improving legend drug prescribing practices. The implementation plan shall include mechanisms that will eventually allow persons authorized to prescribe or dispense controlled substances to query the web-based interactive prescription monitoring program and obtain real time information regarding legend drug utilization history of persons for whom they are providing medical or pharmaceutical care when such persons are receiving health services through the programs included in this subsection.

NEW SECTION. Sec. 45. (1) Prescription information submitted to the authority shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3), (4), and (5) of this section.

(2) The authority shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3), (4), and (5) of this section.

(3) The authority shall review the prescription information. The authority shall notify the practitioner and allow explanation or correction of any problem. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the authority shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity, and provide prescription information required for an investigation.

(4) The authority may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; and

(i) Personnel of the department of health for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(5) The authority may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(6) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

NEW SECTION. Sec. 46. The authority may contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor is bound to comply with the provisions regarding confidentiality of prescription information in section 45 of this act and is subject to the penalties specified in section 48 of this act for unlawful acts.

NEW SECTION. Sec. 47. The authority shall adopt rules to implement this chapter.

NEW SECTION. Sec. 48. (1) A dispenser who knowingly fails to submit prescription monitoring information to the authority as required by this chapter or knowingly submits incorrect prescription information is subject to disciplinary action under chapter 18.130 RCW.

(2) A person authorized to have prescription monitoring information under this chapter who knowingly discloses such information in violation of this chapter is subject to civil penalty.

(3) A person authorized to have prescription monitoring information under this chapter who uses such information in a manner or for a purpose in violation of this chapter is subject to civil penalty.

(4) In accordance with chapter 70.02 RCW and federal health care information privacy requirements, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

Sec. 49. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) 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;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) 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;

(ii) 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 subsection (1)(d) as exempt from disclosure;

(iii) 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;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; ~~(and)~~

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); and

(h) Information obtained by the health care authority under chapter 41.-- RCW (sections 42 through 48 of this act).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

STRATEGIC HEALTH PLANNING

NEW SECTION. Sec. 50. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers, ambulatory diagnostic, treatment, or surgical facilities, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy.

NEW SECTION. Sec. 51. (1) The office shall serve as a coordinating body for public and private efforts to improve quality in

health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Maintain access to deidentified data collected and stored by any public and private organizations as necessary to support its planning responsibilities, including state-purchased health care program data, hospital discharge data, and private efforts to collect utilization and claims-related data. The office is authorized to enter into any data sharing agreements and contractual arrangements necessary to obtain data or to distribute data. Among the sources of deidentified data that the office may access are any databases established pursuant to the recommendations of the health information infrastructure advisory board established by chapter 261, Laws of 2005. The office may store limited data sets as necessary to support its activities. Unless specifically authorized, the office shall not collect data directly from the records of health care providers and health care facilities, but shall make use of databases that have already collected such information; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) The office shall establish a technical advisory committee to assist in the development of the strategy. Members of the committee shall include health economists, health planners, representatives of government and nongovernment health care purchasers, representatives of state agencies that use or regulate entities with an interest in health planning, representatives of acute care facilities, representatives of long-term care facilities, representatives of community-based long-term care providers, representatives of health care providers, a representative of one or more federally recognized Indian tribes, and representatives of health care consumers. The committee shall include members with experience in the provision of health services to rural communities.

NEW SECTION. Sec. 52. (1) The office, in consultation with the technical advisory committee established under section 51 of this act, shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the

adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor by January 1, 2010. Every two years the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.

NEW SECTION. Sec. 53. The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need.

NEW SECTION. Sec. 54. (1) The office may respond to requests for data and other information from its computerized system for special studies and analysis consistent with requirements for confidentiality of patient, provider, and facility-specific records. The office may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) Data elements related to the identification of individual patient's, provider's, and facility's care outcomes are confidential, are exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and are not subject to discovery by subpoena or admissible as evidence.

Sec. 55. RCW 70.38.015 and 1989 1st ex.s. c 9 s 601 are each amended to read as follows:

It is declared to be the public policy of this state:

(1) That strategic health planning ((~~to~~)) efforts must be supported by appropriately tailored regulatory activities that can effectuate the goals and principles of the statewide health resources strategy developed pursuant to chapter 43.-- RCW (sections 50 through 54 of this act). The implementation of the strategy can promote, maintain, and assure the health of all citizens in the state, ((~~to~~)) provide accessible health services, health manpower, health facilities, and other resources while controlling ((~~excessive~~)) increases in costs, and ((~~to~~)) recognize prevention as a high priority in health programs(, is essential to the health, safety, and welfare of the people of the state. Health planning should be responsive to changing health and social needs and conditions)). Involvement in health planning from both consumers and providers throughout the state should be encouraged;

(2) ((~~That the development of health services and resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities and without unnecessary duplication or fragmentation~~)) That the certificate of need program is a component of a health planning regulatory process that is

consistent with the statewide health resources strategy and public policy goals that are clearly articulated and regularly updated;

(3) That the development and maintenance of adequate health care information, statistics and projections of need for health facilities and services is essential to effective health planning and resources development;

(4) That the development of nonregulatory approaches to health care cost containment should be considered, including the strengthening of price competition; and

(5) That health planning should be concerned with public health and health care financing, access, and quality, recognizing their close interrelationship and emphasizing cost control of health services, including cost-effectiveness and cost-benefit analysis.

NEW SECTION. Sec. 56. (1) For the purposes of this section and RCW 70.38.015 and 70.38.135, "statewide health resource strategy" or "strategy" means the statewide health resource strategy developed by the office of financial management pursuant to chapter 43.-- RCW (sections 50 through 54 of this act).

(2) Effective January 1, 2010, for those facilities and services covered by the certificate of need programs, certificate of need determinations must be consistent with the statewide health resources strategy developed pursuant to section 52 of this act, including any health planning policies and goals identified in the statewide health resources strategy in effect at the time of application. The department may waive specific terms of the strategy if the applicant demonstrates that consistency with those terms will create an undue burden on the population that a particular project would serve, or in emergency circumstances which pose a threat to public health.

Sec. 57. RCW 70.38.135 and 1989 1st ex.s. c 9 s 607 are each amended to read as follows:

The secretary shall have authority to:

(1) Provide when needed temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee-for-service basis;

(2) Make or cause to be made such on-site surveys of health care or medical facilities as may be necessary for the administration of the certificate of need program;

(3) Upon review of recommendations, if any, from the board of health or the office of financial management as contained in the Washington health resources strategy;

(a) Promulgate rules under which health care facilities providers doing business within the state shall submit to the department such data related to health and health care as the department finds necessary to the performance of its functions under this chapter;

(b) Promulgate rules pertaining to the maintenance and operation of medical facilities which receive federal assistance under the provisions of Title XVI;

(c) Promulgate rules in implementation of the provisions of this chapter, including the establishment of procedures for public hearings for predecisions and post-decisions on applications for certificate of need;

(d) Promulgate rules providing circumstances and procedures of expedited certificate of need review if there has not been a significant change in existing health facilities of the same type or in the need for such health facilities and services;

(4) Grant allocated state funds to qualified entities, as defined by the department, to fund not more than seventy-five percent of the costs of regional planning activities, excluding costs related to review

of applications for certificates of need, provided for in this chapter or approved by the department; and

(5) Contract with and provide reasonable reimbursement for qualified entities to assist in determinations of certificates of need.

NEW SECTION. Sec. 58. RCW 70.38.919 (Effective date-- State health plan--1989 1st ex.s. c 9) and 1989 1st ex.s. c 9 s 610 are each repealed.

NEW SECTION. Sec. 59. 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. 60. Sections 42 through 48 of this act constitute a new chapter in Title 41 RCW.

NEW SECTION. Sec. 61. Sections 50 through 54 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 62. Subheadings used in this act are not any part of the law.

NEW SECTION. Sec. 63. Sections 18 through 22 of this act take effect January 1, 2008.

NEW SECTION. Sec. 64. If specific funding for the purposes of the following sections of this act, referencing the section of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, the section is null and void:

- (1) Section 2 of this act;
- (2) Section 9 of this act (Washington state quality forum);
- (3) Section 10 of this act (health records banking pilot project);
- (4) Section 14 of this act;
- (5) Section 41 of this act (state employee health demonstration project);
- (6) Sections 50 through 57 of this act."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; McDonald and Priest.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 5955 Prime Sponsor, Senate Committee on Ways & Means: Regarding educator preparation, professional development, and compensation. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Kretz; McDonald and Priest.

Passed to Committee on Rules for second reading.

April 2, 2007

2SSB 5995 Prime Sponsor, Senate Committee on Ways & Means: Providing for the role of the economic development commission in state government. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community & Economic Development & Trade.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.162.005 and 2003 c 235 s 1 are each amended to read as follows:

The legislature finds that Washington's innovation and trade-driven economy has provided tremendous opportunities for citizens of the state, but that there is no guarantee that globally competitive firms will continue to grow and locate in the state. The current economic development system is fragmented among numerous programs, councils, centers, and organizations with inadequate overall coordination and insufficient guidance built into the system to ensure that the system is responsive to its customers. The current economic development system's data-gathering and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so the system may be held accountable for its outcomes.

The legislature also finds that developing ((an effective)) a comprehensive economic development ((strategy for the state and operating)) strategic plan to guide the operation of effective economic development programs, including workforce training, infrastructure development, small business assistance, technology transfer, and export assistance, ((are)) is vital to the state's efforts to increase the competitiveness of state businesses, encourage employment growth, increase state revenues, and generate economic well-being. ((In addition, the legislature finds that)) There is a need for responsive and consistent involvement of the private sector in the state's economic development efforts. The legislature finds that there is a need for the development of coordination criteria for business recruitment, expansion, and retention activities carried out by the state and local entities. It is the intent of the legislature to create an economic development commission that will ((develop and update

the state's economic development strategy and performance measures and provide advice to and oversight of the department of community, trade, and economic development)) provide planning, coordination, evaluation, monitoring, and policy analysis and development for the state economic development system as a whole, and advice to the governor and legislature concerning the state economic development system.

Sec. 2. RCW 43.162.010 and 2003 c 235 s 2 are each amended to read as follows:

(1) The Washington state economic development commission is established to oversee the economic development strategies and policies of the department of community, trade, and economic development.

(2)(a) The Washington state economic development commission shall consist of ((at least seven and no more than nine)) eleven voting members appointed by the governor with the consent of the senate as follows: Six representatives of the private sector, one representative of labor, one representative of port districts, one representative of a four-year state public institution of higher education, one representative of a state community or technical college, and one representative of associate development organizations. The director of the department of community, trade, and economic development, the director of the workforce training and education coordinating board, the commissioner of the employment security department, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies shall serve as nonvoting ex officio members.

The chair of the commission shall be a voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs. Each member of the commission may appoint a designee to function in his or her place and designees appointed by a voting member shall have the right to vote.

(b) In making the appointments, the governor shall consult with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations, economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

(c) The members shall be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. ((Representation shall derive primarily from the)) Private sector ((including, but not limited to;)) members shall represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses ((but other sectors of the economy that have experience in economic development, including labor organizations and nonprofit organizations, shall be represented as well. A minimum of seventy-five percent of the members shall represent the private sector)). Members of the commission shall serve statewide interests while preserving their diverse perspectives, and shall be recognized leaders in their fields with demonstrated experience in economic development or disciplines related to economic development.

(3) Members appointed by the governor shall serve at the pleasure of the governor for three-year terms ((except that through June 30, 2004, members currently serving on the economic development commission created by executive order may continue to serve at the pleasure of the governor. Of the initial members

appointed to serve after June 30, 2004, two members shall serve one-year terms, three members shall serve two-year terms, and the remainder of the commission members shall serve three-year terms)).

(4) ~~((The commission chair shall be selected from among the appointed members by the majority vote of the members:~~

~~—(5))~~ The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.

(5) The executive director of the commission shall be appointed by the governor with the consent of the voting members of the commission. The governor may dismiss the executive director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor.

(6) The commission may adopt rules for its own governance.

NEW SECTION. Sec. 3. A new section is added to chapter 43.162 RCW to read as follows:

(1) The commission shall employ an executive director. The executive director shall serve as chief executive officer of the commission and shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, utilize staff of existing operating agencies to the fullest extent possible, and employ outside consulting and service agencies when appropriate.

(2) The executive director may not be the chair of the commission.

(3) The executive director shall appoint necessary staff who shall be exempt from the provisions of chapter 41.06 RCW. The executive director's appointees shall serve at the executive director's pleasure on such terms and conditions as the executive director determines but subject to chapter 42.52 RCW.

(4) The executive director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the commission.

(5) The executive director shall exercise such additional powers, other than rule making, as may be delegated by the commission.

Sec. 4. RCW 43.162.020 and 2003 c 235 s 3 are each amended to read as follows:

The Washington state economic development commission shall ~~((perform the following duties:~~

~~—(1) Review and periodically update the state's economic development strategy, including implementation steps, and performance measures, and perform an annual evaluation of the strategy and the effectiveness of the state's laws, policies, and programs which target economic development;~~

~~—(2) Provide policy, strategic, and programmatic direction to the department of community, trade, and economic development regarding strategies to:~~

~~—(a) Promote business retention, expansion, and creation within the state;~~

~~—(b) Promote the business climate of the state and stimulate increased national and international investment in the state;~~

~~—(c) Promote products and services of the state;~~

~~—(d) Enhance relationships and cooperation between local governments, economic development councils, federal agencies, state agencies, and the legislature;~~

~~—(e) Integrate economic development programs, including work force training, technology transfer, and export assistance; and~~

~~—(f) Make the funds available for economic development purposes more flexible to meet emergent needs and maximize opportunities;~~

~~—(3) Identify policies and programs to assist Washington's small businesses;~~

~~—(4) Assist the department of community, trade, and economic development with procurement and deployment of private funds for business development, retention, expansion, and recruitment as well as other economic development efforts;~~

~~—(5) Meet with the chairs and ranking minority members of the legislative committees from both the house of representatives and the senate overseeing economic development policies; and~~

~~—(6) Make a biennial report to the appropriate committees of the legislature regarding the commission's review of the state's economic development policy, the commission's recommendations, and steps taken by the department of community, trade, and economic development to implement the recommendations. The first report is due by December 31, 2004);~~

(1) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system;

(2) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. In developing the state comprehensive plan for economic development, the commission shall use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

(3) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs;

(4)(a) Periodically review for consistency with the state comprehensive plan for economic development the policies and plans established for:

(i) Business and technical assistance by the small business development center, the Washington manufacturing service, the Washington technology center, associate development organizations, the department of community, trade, and economic development, and the office of minority and women-owned business enterprises;

(ii) Export assistance by the small business export finance assistance center, the international marketing program for agricultural commodities and trade, the department of agriculture, the center for international trade in forest products, associate development organizations, and the department of community, trade, and economic development; and

(iii) Infrastructure development by the department of community, trade, and economic development and the department of transportation; and

(b) Review and make recommendations to the office of financial management and the legislature on budget requests and legislative proposals relating to the state economic development system for purposes of consistency with the state comprehensive plan for economic development;

(5) Provide for coordination among the different agencies, organizations, and components of the state economic development system at the state level and at the regional level;

(6) Advocate for the state economic development system and for meeting the needs of industry associations, industry clusters, businesses, and employees;

(7) Identify partners and develop a plan to develop a consistent and reliable database on participation rates, costs, program activities, and outcomes from publicly funded economic development programs in this state by January 1, 2011.

(a) In coordination with the development of the database, the commission shall establish standards for data collection and maintenance for providers in the economic development system in a format that is accessible to use by the commission. The commission shall require a minimum of common core data to be collected by each entity providing economic development services with public funds and shall develop requirements for minimum common core data in consultation with the economic climate council, the office of financial management, and the providers of economic development services;

(b) The commission shall establish minimum common standards and metrics for program evaluation of economic development programs, and monitor such program evaluations; and

(c) The commission shall, beginning no later than January 1, 2012, periodically administer, based on a schedule established by the commission, scientifically based outcome evaluations of the state economic development system including, but not limited to, surveys of industry associations, industry cluster associations, and businesses served by publicly funded economic development programs; matches with employment security department payroll and wage files; and matches with department of revenue tax files;

(8) Evaluate proposals for expenditure from the economic development strategic reserve account and recommend expenditures from the account; and

(9) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination.

The commission may delegate to the director any of the functions of this section.

NEW SECTION. Sec. 5. (1) The commission must develop and update a state comprehensive plan for economic development and an initial inventory of economic development programs, as required under section 4 of this act, by June 30, 2008.

(2) Using the information from the inventory, public input, and such other information as it deems appropriate, the commission shall, by September 1, 2008, provide a report with findings, analysis, and recommendations to the governor and the legislature on the appropriate state role in economic development and the appropriate administrative and regional structures for the provision of economic development services. The report shall address how best to organize the state system to ensure that the state's economic development efforts:

(a) Are organized around a clear central mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to efficiency and effectiveness;

(e) Maximize results through partnerships and the use of intermediaries; and

(f) Provide increased accountability to the public, the executive branch, and the legislature.

(3) The report should address the potential value of creating or consolidating specific programs if doing so would be consistent with an agency's core mission, and the potential value of removing specific programs from an agency if the programs are not central to the agency's core mission.

Sec. 6. RCW 43.162.030 and 2003 c 235 s 4 are each amended to read as follows:

~~((1)) The Washington state economic development commission shall receive the necessary staff support from the staff resources of the governor, the department of community, trade, and economic development, and other state agencies as appropriate, and within existing resources and operations.~~

~~—((2)) Creation of the Washington state economic development commission shall not be construed to modify any authority or budgetary responsibility of the governor or the department of community, trade, and economic development.~~

Sec. 7. RCW 82.33A.010 and 1998 c 245 s 168 are each amended to read as follows:

(1) The economic climate council is hereby created.

(2) The council shall, in consultation with the Washington economic development commission, select a series of ~~((no more than ten))~~ benchmarks that characterize the competitive environment of the state. The benchmarks should be indicators of the cost of doing business; the education and skills of the work force; a sound infrastructure; and the quality of life. In selecting the appropriate benchmarks, the council shall use the following criteria:

(a) The availability of comparative information for other states and countries;

(b) The timeliness with which benchmark information can be obtained; and

(c) The accuracy and validity of the benchmarks in measuring the economic climate indicators named in this section.

(3) Each year the council shall prepare an official state economic climate report on the present status of benchmarks, changes in the benchmarks since the previous report, and the reasons for the changes. The reports shall include current benchmark comparisons with other states and countries, and an analysis of factors related to the benchmarks that may affect the ability of the state to compete economically at the national and international level.

(4) All agencies of state government shall provide to the council immediate access to all information relating to economic climate reports.

Sec. 8. RCW 82.33A.020 and 1996 c 152 s 4 are each amended to read as follows:

~~((+)) The economic climate council shall ((create an advisory committee to assist the council)) consult with the Washington economic development commission in selecting benchmarks and~~

developing economic climate reports and benchmarks. The ~~((advisory committee))~~ commission shall provide for a process to ensure public participation in the selection of the benchmarks. ~~((The advisory committee shall consist of no more than seven members. At least two of the members of the advisory committee shall have experience in and represent business, and at least two of the members shall have experience in and represent labor. All of the members of the advisory committee shall have special expertise and interest in the state's economic climate and competitive strategies. Appointments to the advisory committee shall be recommended by the chair of the council and approved by a two-thirds vote of the council. The chair of the advisory committee shall be selected by the members of the committee.~~

~~— (2) The advisory committee shall meet as determined by the chair of the committee until September 30, 1996, and shall meet at least twice per year thereafter in advance of the economic climate reports due on March 31st and September 30th of each year.~~

~~— (3) Members of the advisory council shall serve without compensation but shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 while attending meetings of the advisory committee, sessions of the economic climate council, or on official business authorized by the council.)~~

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Buri; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Chandler; Haler; Hinkle; Kretz and Walsh.

Passed to Committee on Rules for second reading.

March 31, 2007

ESSB 6001 Prime Sponsor, Senate Committee on Water, Energy & Telecommunications: Mitigating the impacts of climate change. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Technology, Energy & Communications.

Strike everything after the enacting clause and insert the following:

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

(a) Washington is especially vulnerable to climate change because of the state's dependence on snow pack for summer stream flows and because the expected rise in sea levels threatens our coastal communities. Extreme weather, a warming Pacific Northwest, reduced snow pack, and sea level rise are four major ways that climate change is disrupting Washington's economy, environment, and communities;

(b) Washington's greenhouse gas emissions are continuing to increase, despite international scientific consensus that worldwide emissions must be reduced significantly below current levels to avert catastrophic climate change;

(c) Washington has been a leader in actions to reduce the increase of emissions, including the adoption of the nation's most stringent carbon dioxide mitigation program for new thermal electric generation facilities, a requirement for integrated resource planning by electric utilities to include life-cycle costs of carbon dioxide emissions, clean car standards, stronger appliance energy efficiency standards, increased production and use of renewable liquid fuels, and increased renewable energy sources by electrical utilities;

(d) Washington state's greenhouse gases are substantially caused by the transportation sector of the economy;

(e) Washington has participated with other Western states in designing regional approaches to reduce greenhouse gas emissions, and a regional cap and trade mechanism will be more effective than if implemented separately in each state;

(f) While these actions are significant, there is a need to assess the trend of emissions statewide over the next several decades, and to take sufficient actions so that Washington meets its responsibility to contribute to the global actions needed to reduce the impacts and the pace of global warming;

(g) Actions to reduce greenhouse gas emissions will spur technology development and increase efficiency, thus resulting in benefits to Washington's economy and businesses; and

(h) Numerous states and nations have adopted emission reduction goals to assist emission sources with planning for changes in practices and technologies.

(2) The legislature further finds that companies that generate greenhouse gas emissions or manufacture products that generate such emissions are purchasing carbon credits from landowners and from other companies in order to provide carbon credits. Companies that are purchasing carbon credits would benefit from a program to trade and to bank carbon credits. Washington forests are one of the most effective resources that can absorb carbon dioxide from the atmosphere. Forests, and other planted lands and waters, provide carbon storage and mitigate greenhouse gas emissions. Washington contains the most productive forests in the world and both public and private landowners could benefit from a carbon storage trading and banking program. The legislature further finds that catastrophic forest fires are a major source of greenhouse gas emissions, and that federal and state forest land management should seek to manage forests to reduce the risk of such fires.

(3) The legislature intends by this act to establish goals for the statewide reduction in greenhouse gas emissions and reduction in petroleum use, and to adopt the governor's mechanism in Executive Order No. 07-02 to design and recommend a comprehensive set of measures to accomplish the goals. The legislature further intends by this act to authorize immediate actions in the electric power generation sector for the reduction of greenhouse gas emissions and to accelerate efficiency in the transportation sector.

NEW SECTION. Sec. 2. The following greenhouse gas emissions reduction and clean energy economy goals are established for Washington state:

- (1) By 2020, reduce greenhouse gas emissions in the state to 1990 levels;
- (2) By 2035, reduce greenhouse gas emissions in the state to twenty-five percent below 1990 levels;
- (3) By 2050, the state will do its part to reach global climate stabilization levels by reducing emissions to fifty percent below 1990 levels or seventy percent below the state's expected emissions that year;
- (4) By 2020, increase the number of clean energy sector jobs to twenty-five thousand from the eight thousand four hundred jobs the state had in 2004; and
- (5) By 2020, reduce expenditures by twenty percent on fuel imported into the state by developing Washington resources and supporting efficient energy use.

NEW SECTION. Sec. 3. (1) Executive Order No. 07-02 shall provide the mechanisms for identifying the policies and strategies necessary to achieve the economic and emission reduction goals of section 2 of this act. Consistent with the Executive Order's directive to seek a healthier and more prosperous future for Washington state, agency and stakeholder representatives participating in the Washington climate change challenge shall also seek emission reduction policies and strategies that, to the maximum extent possible, minimize economic disruptions and protect jobs for Washington state workers, citizens, and businesses, while avoiding policies and strategies that would result in the transfer or outsourcing of economic advantages or jobs to other states, regions, or nations.

(2) In addition to the policies and strategies that the climate change stakeholder group shall develop for the governor and the legislature, the group shall:

- (a) Identify economic and regulatory incentives to encourage the replacement of the highest emitting thermal electric plants in the state that have exceeded their expected useful life with newer technologies that have lower greenhouse gases emission levels to facilitate meeting the goals established in this section; and
- (b) Identify methods to utilize indigenous resources, such as landfill gas, geothermal resources, and other assets that might reduce greenhouse gases emissions consistent with the purposes of this section.

NEW SECTION. Sec. 4. By December 31st of each even-numbered year beginning in 2010, the departments of ecology and community, trade, and economic development shall report to the governor and the appropriate committees of the senate and house of representatives the total greenhouse gas emissions for the preceding two years, and totals in each major source sector.

NEW SECTION. Sec. 5. (1) The legislature finds that:

- (a) The United Nation's intergovernmental panel on climate change report, released February 2, 2007, states that evidence of the climate's warming "is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global mean sea level";
- (b) Global warming will have serious adverse consequences on the economy, health, and environment of Washington;
- (c) During the last several years, the state has taken significant strides towards implementing an environmentally and economically sound energy policy through reliance on energy efficiency,

conservation, and renewable energy resources in order to promote a sustainable energy future that ensures an adequate and reliable energy supply at reasonable and stable prices;

(d) The governor, in Executive Order No. 07-02, has called for the reduction of Washington's emission of greenhouse gases to 1990 levels by 2020;

(e) To the extent energy efficiency and renewable resources are unable to satisfy increasing energy and capacity needs, the state will rely on clean and efficient fossil fuel fired generation and will encourage the development of cost-effective, highly efficient, and environmentally sound supply resources to provide reliability and consistency with the state's energy priorities;

(f) It is vital to ensure all electric utilities internalize the significant and underrecognized cost of emissions and to reduce Washington's exposure to costs associated with future regulation of these emissions;

(g) A greenhouse gases emissions performance standard for new long-term financial commitments to electric generating resources will reduce potential exposure of Washington's consumers to future reliability problems in electricity supplies;

(h) The state of California recently enacted a law establishing a greenhouse gases emissions performance standard for electric utility procurement of baseload electric generation that is based on the emissions of a combined-cycle thermal electric generation facility fueled by natural gas;

(i) The legislature recognizes that state or federal legislation may be enacted and federal regulation may occur that would provide standards or programs that would preempt, make inconsistent, or render unnecessary emission standards or schedules established in this act; and

(j) The state of Washington has an obligation to provide clear guidance for the procurement of baseload electric generation to alleviate regulatory uncertainty while addressing risks that can affect the ability of electric utilities to make necessary and timely investments to ensure an adequate, reliable, and cost-effective supply of electricity.

(2) The legislature declares that:

(a) A greenhouse gases emissions performance standard for new long-term financial commitments for baseload electric generation should reduce financial risk to electric utilities and their customers from future pollution-control costs, without jeopardizing the state's commitment to lowest reasonable cost resources and the need to maintain a reliable regional electric system.

(b) A greenhouse gases emissions performance standard will complement the state's carbon dioxide mitigation policy for fossil-fueled thermal electric generation facilities under chapter 80.70 RCW.

(c) The need for long-term financial commitments for new baseload electric generation can be reduced over time through the deployment by electric utilities of technologies that improve the efficiency of electricity production, transmission, distribution, and consumption.

NEW SECTION. Sec. 6. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(4) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(5) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(6) "Commercially available" means that at least one hundred plants of substantially the same design, specifications, and performance characteristics have been in commercial operation for at least three years.

(7) "Commission" means the Washington utilities and transportation commission.

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

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

(10) "Distributed generation" has the same meaning as defined in RCW 19.285.030.

(11) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(12) "Electric utility" means an electrical company or a consumer-owned utility.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(14) "Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(15) "Injected permanently" means the carbon dioxide injected into a geological formation will remain in the target geological formation with only de minimis leakage, as demonstrated using site-specific data.

(16) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(17) "Output-based methodology" means a greenhouse gases emissions performance standard that is expressed in pounds of greenhouse gases emitted per net megawatt-hour produced. For purposes of this subsection, "net" refers to the difference between the heat energy dedicated to power production and the electrical equivalent of useful thermal energy employed for purposes other than the generation of electricity.

(18) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(19) "Power plant" means a facility for the generation of electricity that includes one or more generating units at the same location.

(20) "Unspecified sources" means baseload electric generation supplied under a power purchase agreement that does not specify or otherwise identify the power plant or power plants that are the source of power delivered to an electric utility.

(21) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in generation air quality permits that are in effect on the effective date of this section but may result in incidental increases in generation capacity.

NEW SECTION. Sec. 7. (1) Beginning July 1, 2008, the greenhouse gases emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

(a) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(b) The rate of emissions of greenhouse gases for a commercially available combined-cycle natural gas thermal electric generation facility that provides baseload electric generation.

(2) Even if their actual emissions are higher than the greenhouse gas emissions performance standard, all baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments.

(3) All electric generating facilities or power plants powered by renewable resources, as defined in RCW 19.285.030, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(4) All electric generating facilities or power plants, including cogeneration, that use either exclusively or in combination with a renewable resource, as defined in RCW 19.285.030, fuel that is a byproduct of pulping or wood manufacturing processes, including but not limited to bark, sawdust, and lignin in spent pulping liquors, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(5) In determining the rate of emissions of greenhouse gases for baseload electric generation, the total emissions associated with producing electricity shall be included.

(6) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gases emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(7) Carbon dioxide emissions produced by baseload electric generation owned or contracted through a long-term financial commitment that are injected permanently in geological formations or that are permanently sequestered by other means approved by the department shall not be counted as emissions of the power plant in

determining compliance with the greenhouse gases emissions performance standard.

(8) In adopting and implementing the greenhouse gases emissions performance standard, the department, in consultation with the commission, the Bonneville power administration, the western electricity coordination council, the energy facility site evaluation council, the department of community, trade, and economic development energy policy division, electric utilities, public interest representatives, and consumer representatives shall consider the effects of the greenhouse gases emissions performance standard on system reliability and overall costs to electricity customers.

(9) In developing and implementing the greenhouse gases emissions performance standard, the department shall, with assistance of the commission, the department of community, trade, and economic development energy policy division, and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(10) The department shall adopt the greenhouse gases emissions performance standard by rule pursuant to chapter 34.05 RCW, the administrative procedure act. The department shall adopt rules to enforce the requirements of this section, and adopt procedures to verify the emissions of greenhouse gases from any baseload electric generation supplied directly or under a contract subject to the greenhouse gases emissions performance standard to ensure compliance with the standard. Enforcement of the greenhouse gases emissions performance standard must begin immediately upon the establishment of the standard.

(11) In adopting the rules for implementing this section, the department shall include criteria to be applied in evaluating the carbon sequestration plan. The rules shall include but not be limited to:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological or other approved sequestration commencing within five years of plant operation, including full and sufficient technical documentation to support the planned sequestration;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule; and

(e) Provisions for public notice and comment on the carbon sequestration plan.

(12)(a) Except as provided in (b) of this subsection, as part of its role enforcing the greenhouse gases emissions performance standard, the department shall determine whether a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities.

(b) For facilities under its jurisdiction, the energy facility site evaluation council shall contract for review of the carbon sequestration plan with the department, consider the adequacy of the plan in its adjudicative proceedings conducted under RCW 80.50.090(3) and incorporate specific findings regarding adequacy in its recommendation to the governor under RCW 80.50.100.

(13) A project under consideration by the energy facility site evaluation council before the adoption of rules in subsection (11) of this section is required to include all of the requirements of subsection (11) of this section in its carbon sequestration plan

submitted as part of the energy facility site evaluation council process.

(14) The department shall adopt the rules necessary to implement this section by June 30, 2008.

NEW SECTION. Sec. 8. (1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30, 2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall make a determination regarding the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity that complies with the greenhouse gases emissions performance standard established under section 7 of this act, as to the need for the resource, and the appropriateness of the specific resource selected. The commission shall take into consideration factors such as the company's forecasted loads, need for energy, power plant technology, expected costs, and other associated investment decisions. In addition, the commission shall provide for recovery of the prudently incurred capital and operating cost of these resources and may impose such conditions as it finds necessary to ensure that rates are fair, just, reasonable, and sufficient, coincident with the in-service date of the project or the effective date of the power purchase agreement.

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with the long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and ends on the effective date of the final decision by the commission regarding recovery in rates of these deferred costs. Creation of such a deferral account does not by itself determine whether recovery of any or all of these costs is appropriate.

(7) In establishing rates for each electrical company regulated under chapter 80.28 RCW, the commission shall adopt policies allowing an additional return on investments to encourage meeting energy requirements through distributed generation as defined in RCW 19.285.030, and to accelerate efficiencies in electric transmission and distribution systems that increase reliability and reduce energy losses or otherwise increase the efficiency of energy

delivery to end-use consumers. These policies shall include but are not limited to adding an increment of two percent to the rate of return on common equity permitted on an electrical company's other investments for prudently incurred investments in distributed generation, and in measures that improve, as measured in kilowatt-hour savings, the overall efficiency of transmission, distribution, and end-use consumption of electricity through energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies. The rate of return increment must be allowed for a period, at the commission's discretion, of at least seven but not more than thirty years after the investment is first placed in the rate base. Measures or projects encouraged under this section are those for which construction or installation is begun after July 1, 2007, and before January 1, 2017, and which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use that is less than or equal to the incremental system cost per unit of energy delivered to end use from new baseload or peaking electric generation and that the electrical company could acquire to meet energy demand in the same time period.

(8) The commission shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under section 7 of this act.

(9) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(10) The commission shall adopt the rules necessary to implement this section by December 31, 2008.

NEW SECTION. Sec. 9. (1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(2) The governing board of a consumer-owned utility shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse gases emissions performance standard established under section 7 of this act.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse gases emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from

baseload electric generation pursuant to section 7 of this act, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

NEW SECTION. Sec. 10. A new section is added to chapter 43.19 RCW to read as follows:

(1) During the biennium ending June 30, 2009, the department of general administration is authorized to purchase at least one hundred plug-in electric hybrid vehicles for state agency light duty vehicle uses, when commercially available at comparable life costs to other vehicles. The department of general administration shall assign these vehicles to departments and job functions that on average log the most miles driving light duty vehicles. The vehicles must bear a prominent designation as a plug-in electric hybrid vehicle. The department of general administration shall develop a purchasing contract under which state agencies and local governments may purchase plug-in electric hybrid vehicles.

(2) Any agency that owns plug-in hybrid vehicles shall contribute data to an economic analysis of the total life-cycle cost to the state over the vehicle's estimated useful life, including energy inputs into the production of the vehicle, fuel usage, and all related costs of selection, acquisition, operation, maintenance, and disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of the vehicle's estimated useful life.

(3) By December 31, 2009, the department of general administration shall provide a report to the transportation and energy committees of the senate and house of representatives on the acquisition of these vehicles and their operational and maintenance performance.

NEW SECTION. Sec. 11. The legislature finds and declares that greenhouse gases offset contracts, credits, and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers. The legislature declares that this act is intended to reverse the result of *Okeson v. City of Seattle*, No. 77888-4 (January 18, 2007), by expressly granting municipal utilities and public utility districts the statutory authority to engage in mitigation activities to offset their utility's impact on the environment.

NEW SECTION. Sec. 12. A new section is added to chapter 35.92 RCW to read as follows:

(1) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may develop and make publicly available a plan to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the utility owns, leases, uses, contracts for, or otherwise controls.

(2) A city or town authorized to acquire and operate utilities for the purpose of furnishing the city or town and its inhabitants and other persons with electricity for lighting and other purposes may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation and any power purchases. The mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits.

If a state greenhouse gases registry is established, a utility that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. Sec. 13. A new section is added to chapter 54.16 RCW to read as follows:

(1) A public utility district may develop and make publicly available a plan for the district to reduce its greenhouse gases emissions or achieve no-net emissions from all sources of greenhouse gases that the district owns, leases, uses, contracts for, or otherwise controls.

(2) A public utility district may, as part of its utility operation, mitigate the environmental impacts, such as greenhouse gases emissions, of its operation and any power purchases. Mitigation may include, but is not limited to, those greenhouse gases mitigation mechanisms recognized by independent, qualified organizations with proven experience in emissions mitigation activities. Mitigation mechanisms may include the purchase, trade, and banking of greenhouse gases offsets or credits. If a state greenhouse gases registry is established, a public utility district that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this section shall receive credit in the registry.

NEW SECTION. Sec. 14. A new section is added to chapter 82.16 RCW to read as follows:

(1) Subject to the limitations in this section, a consumer-owned utility may claim a credit against the tax imposed under this chapter.

(2) The amount of credit is equal to two percent annually, for a period of at least seven but not more than thirty years after the investment commences, of the cost of investments in distributed generation, and in measures that improve, as measured in kilowatt-hour savings, the overall efficiency of transmission, distribution, and end-use consumption of electricity through energy efficiency technologies, including any device, instrument, machine, appliance, or process related to the transmission, distribution, and consumption of electricity to increase energy efficiency, including but not limited to smart grid technology, smart meters, and demand response technologies.

(3) Measures or projects encouraged under this section are those for which construction or installation is begun after July 1, 2007, and before January 1, 2017, and which, at the time they are placed in the rate base, are reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use that is less than or equal to the incremental system cost per unit of energy delivered to end use from new baseload or peaking electric generation and that the eligible light and power business could acquire to meet energy demand in the same time period.

(4) The amount of credit taken under this section may not exceed one million dollars in total for all light and power businesses in a calendar year. If the department receives applications for credit that exceed one million dollars prior to the end of the calendar year, the department shall apportion the credit on a method determined by the department.

(5) For purposes of this section, "consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

NEW SECTION. Sec. 15. For the purposes of sections 5 through 9 of this act, the department and the commission shall review the greenhouse gases emission performance standard established in this chapter to determine need, applicability, and effectiveness no less than every five years following the effective date of this section, or upon implementation of a federal or state law or rule regulating carbon dioxide emissions of electrical utilities, and report to the legislature.

NEW SECTION. Sec. 16. (1) The office of Washington state climatologist is created.

(2) The office of Washington state climatologist consists of the director of the office, who is the state climatologist, and appropriate staff and administrative support as necessary to carry out the powers and duties of the office as enumerated in section 17 of this act.

(3) The director of the office of Washington state climatologist must be appointed jointly by the president of Washington State University and the president of the University of Washington. The office of Washington state climatologist is administered as determined jointly by these two presidents.

NEW SECTION. Sec. 17. The office of Washington state climatologist has the following powers and duties:

(1) To serve as a credible and expert source of climate and weather information for state and local decision makers and agencies working on drought, flooding, climate change, and other related issues;

(2) To gather and disseminate, and where practicable archive, in the most cost-effective manner possible, all climate and weather information that is or could be of value to policy and decision makers in the state;

(3) To act as the representative of the state in all climatological and meteorological matters, both within and outside of the state, when requested by the legislative or executive branches of the state government;

(4) To prepare, publish, and disseminate climate summaries for those individuals, agencies, and organizations whose activities are related to the welfare of the state and are affected by climate and weather;

(5) To supply critical information for drought preparedness and emergency response as needed to implement the state's drought contingency response plan maintained by the department of ecology under RCW 43.83B.410, and to serve as a member of the state's drought water supply and emergency response committees as may be formed in response to a drought event;

(6) To conduct and report on studies of climate and weather phenomena of significant socioeconomic importance to the state; and

(7) To evaluate the significance of natural and man-made changes in important features of the climate affecting the state, and to report this information to those agencies and organizations in the state who are likely to be affected by these changes.

NEW SECTION. Sec. 18. Sections 1 through 4 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 19. Sections 5 through 9 and 15 of this act constitute a new chapter in Title 80 RCW.

NEW SECTION. Sec. 20. Sections 16 and 17 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Anderson; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Buri; Chandler; Dunn; Haler and Kretz.

Passed to Committee on Rules for second reading.

March 31, 2007

2SSB 6016 Prime Sponsor, Senate Committee on Ways & Means: Concerning good cause reasons for failure to participate in WorkFirst program components. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Children's Services.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.08A.270 and 2002 c 89 s 1 are each amended to read as follows:

(1) Good cause reasons for failure to participate in WorkFirst program components include: (a) Situations where the recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; or (b) the recipient is a parent with a child under the age of one year (~~except that at the time a child reaches the age of three months, the recipient is required to participate in one of the following for up to twenty hours per week:~~

~~(i) Instruction or training which has the purpose of improving parenting skills or child well-being;~~

~~(ii) Preemployment or job readiness training;~~

~~(iii) Course study leading to a high school diploma or GED; or~~

~~(iv) Volunteering in a child care facility licensed under chapter 74.15 RCW so long as the child care facility agrees to accept the recipient as a volunteer and the child without compensation while the parent is volunteering at the facility. The volunteer recipient and his or her child shall not be counted for the purposes of determining licensed capacity or the staff to child ratio of the facility).~~

(2) A parent claiming a good cause exemption from WorkFirst participation under subsection (1)(b) of this section may be required to participate in one or more of the following, up to a maximum total of twenty hours per week, if such treatment, services, or training is indicated:

(a) Mental health treatment;

(b) Alcohol or drug treatment;

(c) Domestic violence services; or

(d) Parenting education or skills training.

(3) The department shall: (a) Work with a parent claiming a good cause exemption under subsection (1)(b) of this section to identify and access programs and services designed to improve parenting skills and promote child well-being; and (b) collaborate with agencies providing home visitation services to prioritize services to parents claiming a good cause exemption under subsection (1)(b) of this section.

(4) Nothing in this section shall prevent a recipient from participating ((fully)) in the WorkFirst program on a voluntary basis. ((A recipient who chooses to participate fully in the WorkFirst program shall be considered to be fulfilling the requirements of this section.

(3) For any recipient who claims a good cause reason for failure to participate in the WorkFirst program based on the fact that the recipient has a child under the age of one year, the department shall, within existing resources, conduct an assessment of the recipient within ninety days and before a job search component is initiated in order to determine if the recipient has any specific service needs or employment barriers. The assessment may include identifying the need for substance abuse treatment, mental health treatment, or domestic violence services, and shall be used in developing the recipient's individual responsibility plan.

(4) A parent may only receive the exemption under subsection (1)(b) of this section one time, for one child.))

(5) A parent is eligible for a good cause exemption under subsection (1)(b) of this section for a maximum total of twelve months over the parent's lifetime."

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDonald; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Kretz and Priest.

Passed to Committee on Rules for second reading.

March 31, 2007

ESSB 6023 Prime Sponsor, Senate Committee on Early Learning & K-12 Education: Concerning the Washington assessment of student learning. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature maintains a strong commitment to high expectations and high academic achievement for all students. The legislature finds that Washington

schools and students are making significant progress in improving achievement in reading and writing. Schools are adapting instruction and providing remediation for students who need additional assistance. Reading and writing are being taught across the curriculum. Therefore, the legislature does not intend to make changes to the Washington assessment of student learning or high school graduation requirements in reading and writing.

(2) However, students are having difficulty improving their academic achievement in mathematics and science, particularly as measured by the high school Washington assessment of student learning. The legislature finds that corrections are needed in the state's high school assessment system that will improve alignment between learning standards, instruction, diagnosis, and assessment of students' knowledge and skills in high school mathematics and science. The legislature further finds there is a sense of urgency to make these corrections and intends to revise high school graduation requirements in mathematics and science only for the minimum period for corrections to be fully implemented.

Sec. 2. RCW 28A.655.061 and 2006 c 115 s 4 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or section 4 of this act, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards ~~((for that))~~ in the reading or writing content areas if the student has ~~((retaken))~~ taken the Washington assessment of student learning at least twice. In the remaining content areas, a student may use the objective alternative assessments if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning with the graduating class of ~~((2010))~~ 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) ~~((Beginning 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.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) ~~((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.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b) A student's score on the mathematics or reading portion of the preliminary scholastic assessment test (PSAT)~~((;))~~ or on the mathematics, reading or English, or writing portion of the scholastic assessment test (SAT)~~((;))~~ or the American college test (ACT) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the ~~((mathematics))~~ state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the ~~((mathematics))~~ relevant portion of the PSAT, SAT, or ACT to meet or exceed the state standard ~~((for mathematics))~~ in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, ~~((2006, and thereafter))~~ 2007. After the first scores are established,

the state board may increase but not decrease the scores required for students to meet or exceed the state standards ~~((for mathematics))~~.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for students as provided in this subsection (12).

(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year. 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 (12)(a) shall have a plan.~~

~~— (ii) Beginning no later than the 2005-06 school year and every year thereafter eighth grade students as described in this subsection (12)(a) shall have a plan.~~

~~— (iii)) (i) The parent or guardian shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, strategies to help them improve their student's skills, and the content of the student's plan.~~

~~((iv)) (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.~~

~~(b) ((Beginning with the 2005-06 school year and every year thereafter,)) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.~~

~~(i) The parent or guardian of ((a) the student ((described in this subsection (12)(b))) shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.~~

~~(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.~~

Sec. 3. RCW 28A.155.045 and 2004 c 19 s 104 are each amended to read as follows:

Beginning with the graduating class of 2008, students served under this chapter, who are not appropriately assessed by the high school Washington assessment system as defined in RCW 28A.655.061, even with accommodations, may earn a certificate of individual achievement. The certificate may be earned using multiple ways to demonstrate skills and abilities commensurate with their individual education programs. The determination of whether the high school assessment system is appropriate shall be made by the student's individual education program team. Except as provided in section 4 of this act, for these students, the certificate of individual achievement is required for graduation from a public high school, but need not be the only requirement for graduation. When measures

other than the high school assessment system as defined in RCW 28A.655.061 are used, the measures shall be in agreement with the appropriate educational opportunity provided for the student as required by this chapter. The superintendent of public instruction shall develop the guidelines for determining which students should not be required to participate in the high school assessment system and which types of assessments are appropriate to use.

When measures other than the high school assessment system as defined in RCW 28A.655.061 are used for high school graduation purposes, the student's high school transcript shall note whether that student has earned a certificate of individual achievement.

Nothing in this section shall be construed to deny a student the right to participation in the high school assessment system as defined in RCW 28A.655.061, and, upon successfully meeting the high school standard, receipt of the certificate of academic achievement.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the graduating class of 2008 and until the graduating class of 2012, students may graduate from high school without earning a certificate of academic achievement or a certificate of individual achievement if they:

(a) Have not successfully met the mathematics standard on the high school Washington assessment of student learning, an approved objective alternative assessment, or an alternate assessment developed for eligible special education students;

(b) Have successfully met the state standard in the other content areas required for a certificate under RCW 28A.655.061 or 28A.155.045;

(c) Have met all other state and school district graduation requirements; and

(d)(i) For the graduating class of 2008, successfully earn one additional high school mathematics credit after the student's eleventh grade year designed to increase the individual student's mathematics proficiency toward meeting or exceeding the mathematics standards assessed on the high school Washington assessment of student learning; and

(ii) For the remaining graduating classes under this section, successfully earn two additional mathematics credits after the student's tenth grade year designed to increase the individual student's mathematics proficiency toward meeting or exceeding the mathematics standards assessed on the high school Washington assessment of student learning.

(2) This section expires August 31, 2013.

Sec. 5. RCW 28A.655.070 and 2005 c 497 s 106 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 state board of education.

(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 state board of education, 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)~~ may 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. 6. RCW 28A.655.063 and 2006 c 115 s 5 are each amended to read as follows:

Subject to the availability of funds appropriated for this purpose, ~~((school districts shall reimburse))~~ the office of the superintendent of public instruction shall provide funds to school districts, arrange for students to receive a testing fee waiver, or make other arrangements to compensate students for the cost of taking the tests in RCW 28A.655.061(10)(b) when the students take the tests for the purpose of using the ~~((mathematics))~~ results as an objective alternative assessment.

Sec. 7. RCW 28A.655.200 and 2006 c 117 s 4 are each amended to read as follows:

(1) ~~((In the absence of mandatory, statewide, norm-referenced assessments,))~~ The legislature intends to permit school districts to offer norm-referenced assessments, make diagnostic tools available to school districts, and provide funding for diagnostic assessments to enhance ((guidance and planning for students and to)) student learning at all grade levels and provide early intervention before the high school Washington assessment of student learning.

(2) In addition to the diagnostic assessments provided under ~~((subsection (5) of))~~ this section, school districts may, at their own expense, administer norm-referenced assessments to students.

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

(4) Beginning September 1, 2007, the office of the superintendent of public instruction shall make diagnostic assessments in reading, writing, mathematics, and science in elementary and middle school grades available to school districts ~~((diagnostic assessments that))~~. Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall also provide funding to school districts for administration of diagnostic assessments to help improve student learning, identify academic weaknesses, enhance student planning and guidance, and develop targeted instructional strategies to assist students before the

high school Washington assessment of student learning. To the greatest extent possible, the assessments shall be:

- (a) Aligned to the state's grade level expectations;
 - (b) Individualized to each student's performance level;
 - (c) Administered efficiently to provide results either immediately or within two weeks;
 - (d) Capable of measuring individual student growth over time and allowing student progress to be compared to other students across the country;
 - (e) Readily available to parents; and
 - (f) Cost-effective.
- (5) ~~((Beginning with the 2006-07 school year, the superintendent of public instruction shall reimburse school districts for administration of diagnostic assessments in grade nine for the purpose of identifying academic weaknesses, enhancing student planning and guidance, and developing targeted instructional strategies to assist students before the high school Washington assessment of student learning.~~
- ~~—(6))~~ The office of the superintendent of public instruction ~~((is encouraged to))~~ shall offer training at statewide and regional staff development activities ~~((training opportunities that would assist practitioners))~~ in:
- (a) The interpretation of diagnostic assessments; and
 - (b) Application of instructional strategies that will increase student learning based on diagnostic assessment data.

NEW SECTION. Sec. 8. (1)(a) The state board of education, in consultation with the superintendent of public instruction, shall examine and recommend changes to the high school Washington assessment of student learning in the content areas of mathematics and science.

(b) In its examination and recommendations, the state board shall address the following issues:

- (i) Timeliness of the return of score results;
- (ii) The diagnostic value of score results;
- (iii) Cost of administration of the assessment and the burden on school districts; and
- (iv) Opportunities to improve alignment of curriculum, instruction, and the assessment.

(c) One of the changes the state board shall examine under this subsection (1) is replacing the current high school Washington assessment of student learning with a limited series of end-of-course assessments in mathematics and science. The board's examination of end-of-course assessments shall include:

- (i) An objective analysis of the potential strengths and weaknesses of end-of-course assessments as the primary high school assessment tool for student and school accountability;
- (ii) Analysis of the possible impact of end-of-course assessments on curriculum and instruction in mathematics and science;
- (iii) The appropriate mathematics and science content to be covered by end-of-course assessments;
- (iv) Recommended implementation timelines and issues to be addressed in replacing the current assessment; and
- (v) A detailed analysis of the cost-effectiveness of adopting end-of-course assessments as compared to continuing to refine and improve the state's Washington assessment of student learning assessment system, associated diagnostic tools, and other teaching support measures.

(2) In conducting its examination under subsection (1) of this section, the state board of education shall seek input from independent national assessment experts; examine the experience of other states, particularly states that have implemented end-of-course

assessments; and use a deliberative public process to ensure adequate input from teachers, school and district administrators, the business community, parents, and other interested individuals and organizations.

(3) In any request for proposals for a new testing contractor for the Washington assessment of student learning, the superintendent of public instruction shall include the possible changes being examined by the state board of education so that additional information about the cost and feasibility of the changes can be provided by prospective testing contractors.

(4) The state board of education shall also examine and make recommendations regarding:

- (a) Options for and possible impacts of compensatory models for setting the standard on the Washington assessment of student learning for graduation purposes; and
- (b) The effectiveness of current authorized alternative assessments and opportunities for additional alternative assessments, including the use of one or more standardized norm-referenced student achievement tests.

(5) The state board of education shall submit a progress report along with any preliminary recommendations on the issues required to be examined under this section to the education committees of the legislature by January 10, 2008. The state board of education shall submit a final report to the education committees of the legislature by December 1, 2008. The final report shall include recommendations for changes to the high school Washington assessment of student learning in mathematics and science and a recommended timeline that provides for expedited implementation of the recommended changes. The changes recommended by the state board of education under this section shall be able to be implemented no later than the 2010-11 school year in order to apply to the graduating class of 2013.

(6) This section expires June 30, 2009.

NEW SECTION. Sec. 9. A new section is added to chapter 28A.655 RCW to read as follows:

(1) In allocating state funds for the promoting academic success program, the legislature has recognized that high school students whose scores represent a near miss of the state standard on the Washington assessment of student learning require fewer remedial resources to ensure that they meet the state standard on the next attempt. However, there is significant variation among the remaining students whose scores represent a far miss of the state standard regarding their levels of knowledge and skills, and consequently the levels of remediation they will need.

(2) School districts receiving funding allocations through the promoting academic success program for high school students scoring more than one standard error of measurement from meeting the state standard shall assign more resources per student to support students scoring at level one on the Washington assessment of student learning than are assigned to support students scoring at level two."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hunt; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Morrell; Pettigrew; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Dunn; Haler; Hinkle; Hunter; Kretz; McDonald and Priest.

Passed to Committee on Rules for second reading.

March 31, 2007

E2SSB 6044 Prime Sponsor, Senate Committee on Ways & Means: Regarding the removal of derelict vessels. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79.100.010 and 2006 c 153 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

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

(7) "Vessel" ~~((has the same meaning as defined in RCW 53.08.310))~~ means every species of watercraft or other mobile artificial contrivance, powered or unpowered, intended to be used for transporting people or goods on water or for floating marine construction or repair and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft, or any attached floats or debris.

Sec. 2. RCW 79.100.040 and 2006 c 153 s 3 are each amended to read as follows:

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

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

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

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

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

(3)(a) If a vessel is: (i) In immediate danger of sinking, breaking up, or blocking navigational channels(=); or (ii) poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination; and (iii) the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility for the vessel, any authorized public entity may tow, beach, or otherwise take temporary possession of the vessel.

(b) Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department or the United States coast guard to ensure that other remedies are not available. The basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. If the authorized public entity has not already provided the required notice, immediately after taking possession of the vessel, the authorized

public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in RCW 79.100.050.

NEW SECTION. Sec. 3. A new section is added to chapter 79.100 RCW to read as follows:

A marina owner may contract with a local government for the purpose of participating in the derelict vessel removal program. The local government shall serve as the authorized public entity for the removal of the derelict vessel from the marina owner's property. The contract must provide for the marina owner to be financially responsible for the removal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the local government during the removal of the derelict vessel. Prior to the commencement of any removal which will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the department for review and approval. The local government shall use the procedure specified under RCW 79.100.100(6).

Sec. 4. RCW 79.100.100 and 2006 c 153 s 6 are each amended to read as follows:

(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under section 7 of this act, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account shall be used by the department to reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement shall not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, regardless of the title of owner of the vessel. Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 shall be used to reimburse one hundred percent of these costs and should be prioritized for the removal of large vessels. Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, exclusive of any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, the department must notify the

department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

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

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

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

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

Sec. 5. RCW 88.02.050 and 2005 c 464 s 2 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.

(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, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, 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 RCW 77.12.879.

(c) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667.

(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400.

(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 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.

Sec. 6. RCW 88.02.050 and 2002 c 286 s 13 are each amended to read as follows:

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 additional dollars must be collected annually from every vessel registration application. These moneys 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, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under section 7 of this act, 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. 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 fee.

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.

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.

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.

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. 7. A new section is added to chapter 88.02 RCW to read as follows:

(1) In order to address the significant backlog of derelict vessels that have accumulated in our state's waters that pose a threat to the health and safety of the people and to our environment, the legislature intends to collect a derelict vessel removal surcharge.

(2) In addition to the fees collected under RCW 88.02.050, the department shall collect an annual derelict vessel removal surcharge of one dollar effective with vessel registrations that are due or will become due on or after January 1, 2008. The revenue generated from the derelict vessel surcharge must be deposited into the derelict vessel removal account established under RCW 79.100.100, and is to be used only for the removal of vessels that are less than seventy-five feet in length.

(3) This section expires January 1, 2014.

NEW SECTION. Sec. 8. (1) The department of natural resources, in consultation with the department of revenue, the department of licensing, and other appropriate stakeholder groups, shall examine:

(a) The costs and benefits of extending a derelict vessel removal fee or surcharges to vessels that are not subject to RCW 88.02.050; and

(b) The use of alternative revenue sources, such as the watercraft excise tax, in order to more equitably distribute the financial responsibility of supporting the cost of the derelict vessel program. The departments shall submit a report of the findings to the

appropriate policy and fiscal committees of the legislature by November 1, 2007.

(2) The department of natural resources, the department of ecology, representatives from the ship demolition industry, and representatives from the environmental community shall convene a work group to discuss operations and permitting requirements surrounding the demolition and disposal of large abandoned and derelict vessels. The department of natural resources shall consider the findings of the work group when updating the guidelines for the derelict vessel program.

NEW SECTION. Sec. 9. Section 5 of this act expires June 30, 2012.

NEW SECTION. Sec. 10. Section 6 of this act takes effect June 30, 2012."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Haler; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

MINORITY recommendation: Without recommendation.
Signed by Representative Dunn.

Passed to Committee on Rules for second reading.

March 30, 2007

ESSB 6099 Prime Sponsor, Senate Committee on Transportation: Hiring a mediator to help the department of transportation develop a state route number 520 expansion impact plan. (REVISED FOR ENGROSSED: Addressing the state route number 520 bridge replacement and HOV project. 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. The legislature finds that the replacement of the vulnerable state route number 520 corridor is a matter of urgency for the safety of Washington's traveling public and the needs of the transportation system in central Puget Sound. The state route number 520 floating bridge serves as a vital route for vehicles to cross Lake Washington, and the bridge carries approximately one hundred fifteen thousand vehicles per day, over three times its design capacity. Additionally, the state route number 520 corridor experiences more than seven hours of congestion per day, impacting other state highways and local roads.

The legislature further finds that starting in 1997, the forty-seven member trans-Lake Washington committee began to identify ways to improve transportation across or around Lake Washington. The project for the environmental impact statement process became the state route number 520 bridge replacement and HOV project in 2000, and the department has analyzed almost one hundred concepts since that time. The legislature finds that sufficient work has been performed to conclude that alternatives other than the four-lane and six-lane alternatives have been explored and rejected for sound reasons.

The legislature further finds that the state route number 520 floating bridge is subject to damage, closure, or even catastrophic failure from windstorms and waves. Additionally, the state route number 520 floating bridge does not meet current seismic standards, and over the next fifty years there is a twenty percent chance of serious damage to the structure if an earthquake occurs. Failure of the floating bridge or the bridge approaches would cause injury or loss of life and have a substantial impact on the region's economy.

Therefore, it is the conclusion of the legislature that time is of the essence, and that Washington state cannot wait for a disaster to make it fully appreciate the urgency of the need to replace this vulnerable structure. The state must take the necessary steps to move forward with the state route number 520 bridge replacement and HOV project.

NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

The needs of the central Puget Sound region and the state are best served by a state route number 520 project alternative that replaces the four existing general purpose lanes and adds two lanes of capacity suitable for transit and other high-occupancy vehicle use. New pontoons for the floating structure must be designed to accommodate the installation of a high-capacity transit system, such as light rail or another comparable system. The department must incorporate this policy into any preferred alternative that may be developed for the project's environmental assessment documents.

NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW to read as follows:

(1) As soon as practicable after the effective date of this act, and after consulting with appropriate local jurisdictions, the department shall hire a mediator to develop a project impact plan and consensus-building among the interested parties to support the policy goals identified in section 2 of this act through fact-finding, facilitation, and mediation. In evaluating the project impacts, the mediator shall consider the concerns of neighborhoods and institutions of higher education directly impacted by the proposed designs, and shall work with the appropriate planning staff.

(a) The mediator must have significant professional experience in (i) working with the impacted communities that surround major transportation construction projects and (ii) mitigating the construction impact on those communities.

(b) The mediator position under this section is a nonbinding advisory position, and this section does not create a legally binding mediation or arbitration position.

(c) The department shall hire the mediator within existing appropriations allocated for the state route number 520 bridge replacement and HOV project.

(2) The mediator must provide monthly updates to the governor and the joint transportation committee regarding the status of the consensus-building process. The mediator must provide the governor and the joint transportation committee with a final impact plan and

recommendation by October 31, 2007. The recommendation must reflect a balance of solutions for carrying out the project that can be incorporated into the legislative direction described in section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 47.01 RCW to read as follows:

The state route number 520 bridge replacement and HOV project finance plan must include state funding, federal funding, one billion one hundred million dollars from the regional transportation investment district, and revenue from tolling. The department must provide a proposed finance plan to be tied to the estimated cost of the recommended project solutions, as provided under section 3 of this act, to the governor and the joint transportation committee by January 1, 2008.

NEW SECTION. Sec. 5. This act may be known and cited as the state route number 520 bridge replacement act."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Appleton; Armstrong; Curtis; Hailey; Hankins; Lovick; Rodne; Rolfes; Sells; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Dickerson; Hudgins and Simpson.

Passed to Committee on Rules for second reading.

April 2, 2007

E2SSB 6117 Prime Sponsor, Senate Committee on Ways & Means: Regarding reclaimed water. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Since the 1992 enactment of the reclaimed water act, the value of reclaimed water as a new source of supply has received increasing recognition across the state and across the nation. New information on the matters in this section has increased awareness of the need to better manage, protect, and conserve water resources and to use reclaimed water in that process. The legislature now finds the following:

(a) Global warming and climate change. Global warming has reduced the volume of glaciers in the North Cascade mountains to between eighteen to thirty-two percent since 1983, and up to seventy-five percent of the glaciers are at risk of disappearing under projected temperatures for this century. Mountain snow pack has declined at virtually every measurement location in the Pacific Northwest, reducing the proportion of annual river flow to Puget Sound during summer months by eighteen percent since 1948. Global warming has also shifted peak stream flows earlier in the year

in watersheds covering much of Washington state, including the Columbia river basin, jeopardizing the state's salmon fisheries. The state's recent report on the economic impacts of climate change indicate that water resources will be one of the areas most affected, and that many utilities may need to invest major resources in new supply and conservation measures. Developing and implementing adaptation strategies, such as water conservation that includes the use of reclaimed water, can extend existing water supply systems to help address the global warming impacts. In particular, because reclaimed water uses existing sources of supply and fairly constant base flows of wastewater, it has year-round dependability, without regard to any given year's climate variability. This is particularly important during summer months, when outdoor demands peak and stream flows are critical for fish.

(b) Puget Sound. The governor has initiated a Puget Sound partnership, with a request for an initial strategy to address high priority problems. In December, the partnership delivered a strategy that includes expanded use of reclaimed water both in order to improve the Puget Sound's water quality by reducing wastewater discharges and by replacing current sources of supply for nonpotable uses that detrimentally affect stream flows and habitat.

(c) Salmon recovery. The federal fisheries services recently approved a salmon recovery plan for the Puget Sound, which was developed across multiple watersheds by numerous local governments, tribal governments, and other parties to achieve sustainable populations of salmon and other species. That plan includes an adaptive management component where continued efforts will be made to address issues, including problems with instream flows, identified as a limiting factor in virtually all the watersheds, through strategies that will be developed by regional and watershed implementation groups. A potentially significant strategy may be the substitution of reclaimed water for nonpotable uses where it will benefit streams and habitat.

(d) Water quality. Increasingly stringent federal standards for water quality are forcing a number of communities to develop strategies for wastewater treatment that, in addition to providing higher treatment levels, will reduce the quantity of discharges. For many of those communities, facilities to produce reclaimed water will be a necessary approach to achieve both water quality and water supply objectives.

(e) Watershed plans. Under the watershed planning act of 1997, approximately two-thirds of the watersheds in the state have used a bottom-up approach to developing collaborative plans for meeting future water supply needs. Many of those plans include the use of reclaimed water for meeting those needs.

(f) Columbia river water management. Pursuant to legislation and funding provided in 2006, federal, state, and local governments and agencies, along with tribal governments, user groups, environmental organizations, and others are developing a comprehensive strategy for the mainstem Columbia that will ensure supplies for future growth while protecting stream flows and fish habitat. The strategy will include multiple tools that may include the potential development of new storage, conservation measures, and water use efficiency. One pathway toward conservation and efficiency is likely to be identification and implementation of reclaimed water opportunities.

(g) Development schedule. The time frame required to plan, design, construct, and begin use of reclaimed water can be extensive due to the public information and acceptance efforts required in addition to planning, design, and environmental assessment required for infrastructure projects. This extended time frame necessitates the initiation of reclaimed water projects as soon as possible.

(2) It is therefore the intent of the legislature to:

(a) Effectuate and reinvigorate the original intent behind the reclaimed water act to expand the use of reclaimed water for nonpotable uses throughout the state;

(b) Restate and emphasize the use of reclaimed water as a matter of water resource management policy;

(c) Address current barriers to the use of reclaimed water, where changes in state law will resolve such issues;

(d) Develop information from the state agencies responsible for promoting the use of reclaimed water and address regulatory, financial, planning, and other barriers to the expanded use of reclaimed water, relying on state agency expertise and experience with reclaimed water;

(e) Facilitate achieving state, regional, and local objectives through use of reclaimed water for water supply purposes in high priority areas of the state, and in regional and local watershed and water planning;

(f) Provide planning tools to local governments to incorporate reclaimed water and related water conservation into land use plans, consistent with water planning;

(g) Expand the scope of work of the advisory committee established under chapter 279, Laws of 2006 to identify other reclaimed water issues that should be addressed; and

(h) Provide initial funding, and evaluate options for providing additional direct state funding, for reclaimed water projects.

Sec. 2. RCW 90.46.005 and 2001 c 69 s 1 are each amended to read as follows:

The legislature finds that by encouraging the use of reclaimed water while assuring the health and safety of all Washington citizens and the protection of its environment, the state of Washington will continue to use water in the best interests of present and future generations.

To facilitate the immediate use of reclaimed water ~~((as soon as is practicable, the legislature encourages the cooperative efforts of the public and private sectors and the use of pilot projects))~~ for uses approved by the departments of ecology and health, the state shall expand both direct financial support and financial incentives for capital investments in water reuse and reclaimed water to effectuate the goals of this chapter. The legislature further directs the department of health and the department of ecology to coordinate efforts towards developing an efficient and streamlined process for creating and implementing processes for the use of reclaimed water.

It is hereby declared that the people of the state of Washington have a primary interest in the development of facilities to provide reclaimed water to replace potable water in nonpotable applications, to supplement existing surface and ground water supplies, and to assist in meeting the future water requirements of the state.

The legislature further finds and declares that the utilization of reclaimed water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife habitat creation and enhancement purposes, including wetland enhancement, will contribute to the peace, health, safety, and welfare of the people of the state of Washington. To the extent reclaimed water is appropriate for beneficial uses, it should be so used to preserve potable water for drinking purposes, contribute to the restoration and protection of instream flows that are crucial to preservation of the state's salmonid fishery resources, contribute to the restoration of Puget Sound by reducing wastewater discharge, provide a drought resistant source of water supply for nonpotable needs, or be a source of supply integrated into state, regional, and local strategies to respond to population growth and global warming. Use of reclaimed water

constitutes the development of new basic water supplies needed for future generations and local and regional water management planning should consider coordination of infrastructure, development, storage, water reclamation and reuse, and source exchange as strategies to meet water demands associated with population growth and impacts of global warming.

The legislature further finds and declares that the use of reclaimed water is not inconsistent with the policy of antidegradation of state waters announced in other state statutes, including the water pollution control act, chapter 90.48 RCW and the water resources act, chapter 90.54 RCW.

The legislature finds that other states, including California, Florida, and Arizona, have successfully used reclaimed water to supplement existing water supplies without threatening existing resources or public health.

It is the intent of the legislature that the department of ecology and the department of health undertake the necessary steps to encourage the development of water reclamation facilities so that reclaimed water may be made available to help meet the growing water requirements of the state.

The legislature further finds and declares that reclaimed water facilities are water pollution control facilities as defined in chapter 70.146 RCW and are eligible for financial assistance as provided in chapter 70.146 RCW. The legislature finds that funding demonstration projects will ensure the future use of reclaimed water. The demonstration projects in RCW 90.46.110 are varied in nature and will provide the experience necessary to test different facets of the standards and refine a variety of technologies so that water purveyors can begin to use reclaimed water technology in a more cost-effective manner. This is especially critical in smaller cities and communities where the feasibility for such projects is great, but there are scarce resources to develop the necessary facilities.

The legislature further finds that the agricultural processing industry can play a critical and beneficial role in promoting the efficient use of water by having the opportunity to develop and reuse agricultural industrial process water from food processing.

Sec. 3. RCW 90.46.120 and 2003 1st sp. s. c 5 s 13 are each amended to read as follows:

(1) The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use ~~((and))~~ distribution ~~((of the))~~, and the recovery from aquifer storage of reclaimed water by the owner of the wastewater treatment facility is exempt from the permit requirements of RCW 90.03.250 and 90.44.060, provided that a permit for recovery of reclaimed water from aquifer storage and recovery shall be reviewed under the standards established under RCW 90.03.370(2). Revenues derived from the reclaimed water facility shall be used only to offset the cost of operation of the wastewater utility fund or other applicable source of system-wide funding.

(2) If the proposed use or uses of reclaimed water are intended to augment or replace potable water supplies or create the potential for the development of additional potable water supplies, such use or uses shall be considered in the development of ~~((the))~~ any regional water supply plan or plans addressing potable water supply service by multiple water purveyors. Such water supply plans include plans developed by multiple jurisdictions under the relevant provisions of chapters 43.20, 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW. The method by which such plans are approved shall remain unchanged. The owner of a wastewater treatment facility that proposes to reclaim

water shall be included as a participant in the development of such regional water supply plan or plans.

(3) Where opportunities for the use of reclaimed water exist within the period of time addressed by a water system plan, a water supply plan, or a coordinated water system plan developed under chapters 43.20 ((or)), 70.116, 90.44, and 90.82 RCW, and the water supply provisions under the utility element of chapter 36.70A RCW, these plans must be developed and coordinated to ensure that opportunities for reclaimed water are evaluated. The requirements of this subsection (3) do not apply to water system plans developed under chapter 43.20 RCW for utilities serving less than one thousand service connections.

Sec. 4. RCW 90.46.130 and 2002 c 329 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsections (2) and (5) of this section, facilities that reclaim water under this chapter shall not impair any existing water right downstream from any freshwater discharge points of such facilities unless ((compensation or mitigation for such impairment is agreed to by the holder of the affected water right)) the impairment is mitigated or the holder of the water right receives just compensation for the impairment. For purposes of this subsection, "just compensation" has the same meaning as provided in Title 8 RCW.

(b) Any reclaimed water project that reduces the quantity of sewage treatment plant effluent discharged directly into marine waters is deemed to not impair any existing water rights.

(2) Agricultural water use of agricultural industrial process water and use of industrial reuse water under this chapter shall not impair existing water rights within the water source that is the source of supply for the agricultural processing plant or the industrial processing and, if the water source is surface water, the existing water rights are downstream from the agricultural processing plant's discharge points existing on July 22, 2001, or from the industrial processing's discharge points existing on June 13, 2002.

(3) The department of ecology shall convene and staff a task force to review potential barriers or issues related to development of reclaimed water projects pursuant to the evaluation of water rights impairment under this section and related impairment issues and shall report the findings and any recommendations of this review to the appropriate standing committees of the legislature no later than December 31, 2007. The task force shall be cochaired by a representative from the water quality and the water resources programs at the department, and shall consist of representatives of interested groups, including the attorney general, the department of health, local governments, tribal governments, water utilities, reclaimed water utilities, wastewater utilities, environmental organizations, agricultural organizations, and businesses including golf course owners. The task force and report shall address the following topics at a minimum: (a) Internal processing of reclaimed water permits by the department, including the ability to deliver timely decisions on potential impairment of water rights; (b) compliance with state and federal water quality standards on existing and future discharges, including potential requirements on wastewater utilities to reduce discharges to water and increase upland discharges; (c) nature of water that is imported into a watershed or potentially exported from the watershed in the form of effluent or reclaimed water; (d) inequities or different treatment of processing of reclaimed water permits and wastewater permits for similar treatment and facilities; (e) ability of existing provisions of state law, such as chapter 90.48 RCW, to address possible impacts to, and mitigation for, stream flows and fish habitat; (f) technical ability to determine

impacts to water sources from reclaimed water facilities; (g) approaches to these issues in other western states with significant use of reclaimed water; (h) the ability of subsection (1)(a) of this section to adequately, efficiently, and equitably address impairment compensation and mitigation.

(4) For purposes of determining a claim of impairment under subsection (1)(a) of this section, of a downstream water right existing as of August 18, 1997, the applicant for a reclaimed water permit shall publish notice of an application for a permit for a reclaimed water facility in the same manner as provided for in RCW 90.48.170. If the department receives a claim of impairment within thirty days of the last publication of notice, the department shall investigate the claim of impairment and issue a written decision. The decision must include any conditions the department finds necessary to mitigate any impairment. The decision must be issued within one hundred eighty days and is appealable by any party under RCW 43.21B.310, regardless of whether the party submits a claim of impairment within thirty days of the last publication of notice, upon the issuance of the decision or as part of the overall reclaimed water permit upon the issuance of a reclaimed water permit. This section may not be construed as exempting a reclaimed water project from the provisions of chapter 43.21C RCW.

(5) This section may not be construed as establishing any right for a downstream water right holder to the continued discharge from an upstream wastewater treatment plant or reclaimed water facility.

Sec. 5. 2006 c 279 s 3 (uncodified) is amended to read as follows:

(1) In order to identify and pursue other measures to facilitate achieving the objectives in RCW 90.46.005 for expanded, appropriate, and safe use of reclaimed water, the department of ecology and the department of health shall provide the legislature with relevant information through periodic progress reports, as provided in this section.

(2) The department of ecology ((must present)) shall provide interim reports to the appropriate committees of the legislature by January 1, 2008, and January 1, 2009, that summarize the steps taken to that date towards the final rule making required by ((section 1 of this act)) RCW 90.46.015. The reports ((must)) shall include, at a minimum, a summary of participation in the rule advisory ((group and)) committee, the topics considered by the department, and issues identified by the rule advisory committee as barriers to expanded use of reclaimed water that may not be addressed within the rules to be adopted by the department.

(3) In addition to subsection (2) of this section, the department shall form a subtask force consisting of not more than ten members chosen from the existing rule advisory committee, and reclaimed water users, to further identify and recommend actions to increase the promotion of reclaimed water as a water supply and water resource management option. At a minimum, the subtask force shall consider (a) issues assigned by the rule advisory committee; (b) staffing levels, resources, and roles within both state agencies; (c) optimizing organizational structure; (d) unresolved legal issues specific to reclaimed water use; and (e) a more appropriate name to describe reclaimed water. Information regarding these topics shall be appended to the required interim reports as the topics are considered by the advisory group.

Sec. 6. RCW 90.82.043 and 2003 1st sp.s. c 4 s 3 are each amended to read as follows:

(1) Within one year of accepting funding under RCW 90.82.040(2)(e), the planning unit must complete a detailed

implementation plan. Submittal of a detailed implementation plan to the department is a condition of receiving grants for the second and all subsequent years of the phase four grant.

(2) Each implementation plan must contain strategies to provide sufficient water for: (a) Production agriculture; (b) commercial, industrial, and residential use; and (c) instream flows. Each implementation plan must contain timelines to achieve these strategies and interim milestones to measure progress.

(3) The implementation plan must clearly define coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms.

(4) In developing the implementation plan, the planning unit must consult with other entities planning in the watershed management area and identify and seek to eliminate any activities or policies that are duplicative or inconsistent.

(5)(a) By December 1, 2003, and by December 1st of each subsequent year, the director of the department shall report to the appropriate legislative standing committees regarding statutory changes necessary to enable state agency approval or permit decision making needed to implement a plan approved under this chapter.

(b) Beginning with the December 1, 2007, report, and then every two years thereafter, the director shall include in each report the extent to which reclaimed water has been identified in the watershed plans as potential sources or strategies to meet future water needs, and provisions in any watershed implementation plans that discuss barriers to implementation of the water reuse elements of those plans. The department's report shall include an estimate of the potential cost of reclaimed water facilities and identification of potential sources of funding for them.

NEW SECTION. Sec. 7. (1) By January 1, 2008, the department of health shall file a brief report with the appropriate committees of the legislature on the general status of:

(a) Development of permit fees for industrial and commercial uses of reclaimed water as required by RCW 90.46.030;

(b) Development of standards and guidelines for greywater use as required by RCW 90.46.140; and

(c) Permitting of greywater use by local health officers and plumbing officials in accordance with standards and guidelines developed pursuant to RCW 90.46.140.

(2) The report shall also identify:

(a) A general description of the number, type, and location of reclaimed water opportunities included in water supply and coordinated water system plans since 2003, as required by RCW 90.46.140;

(b) The best information currently available regarding potential public health risks associated with reclaimed water, if any, any known occurrences of any public health incidents associated with reclaimed water use, the approaches to reclaimed water-related public health issues taken in other states, and resource needs of the department to evaluate any known public health risks; and

(c) A description of a basic public information and public acceptance program necessary to generate public support for the beneficial use of reclaimed water.

(3) In order to ensure brevity of the report, the department should include references to existing documents, reports, internet sites, and other sources of detailed information on the foregoing issues.

Sec. 8. RCW 90.54.020 and 1997 c 442 s 201 are each amended to read as follows:

Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:

(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial.

(2) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less costs including opportunities lost.

(3) The quality of the natural environment shall be protected and, where possible, enhanced as follows:

(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:

(i) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(ii) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(4) The development of multipurpose water storage facilities shall be a high priority for programs of water allocation, planning, management, and efficiency. The department, other state agencies, local governments, and planning units formed under section 107 or 108 of this act shall evaluate the potential for the development of new storage projects and the benefits and effects of storage in reducing damage to stream banks and property, increasing the use of land, providing water for municipal, industrial, agricultural, power generation, and other beneficial uses, and improving stream flow regimes for fisheries and other instream uses.

(5) Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.

(6) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of fishery resources in the planning for and construction of water impoundment structures and other artificial obstructions.

(7) Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry

out practices of conservation as they relate to the use of the waters of the state. In addition to traditional development approaches, improved water use efficiency (~~and~~), conservation, and use of reclaimed water shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state. Use of reclaimed water should be employed through state and local planning and programs with incentives for state financial assistance recognizing programs and plans that encourage the use of conservation and reclaimed water use, and state agencies shall continue to review and reduce regulatory barriers and streamline permitting for the use of reclaimed water where appropriate.

(8) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public.

(9) Full recognition shall be given in the administration of water allocation and use programs to the natural interrelationships of surface and ground waters.

(10) Expressions of the public interest will be sought at all stages of water planning and allocation discussions.

(11) Water management programs, including but not limited to, water quality, flood control, drainage, erosion control and storm runoff are deemed to be in the public interest.

Sec. 9. RCW 90.54.180 and 1989 c 348 s 5 are each amended to read as follows:

Consistent with the fundamentals of water resource policy set forth in this chapter, state and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out water use efficiency and conservation programs and practices consistent with the following:

(1) Water efficiency and conservation programs should utilize an appropriate mix of economic incentives, cost share programs, regulatory programs, and technical and public information efforts. Programs which encourage voluntary participation are preferred.

(2) Increased water use efficiency and reclaimed water should receive consideration as a potential source of water in state and local water resource planning processes. In determining the cost-effectiveness of alternative water sources, consideration should be given to the benefits of conservation, waste water recycling, and impoundment of waters. Where reclaimed water is a feasible replacement source of water, it shall be used by state agencies and state facilities for nonpotable water uses in lieu of the use of potable water. For purposes of this requirement, feasible replacement source means (a) the reclaimed water is of adequate quality and quantity for the proposed use; (b) the proposed use is approved by the departments of ecology and health; (c) the reclaimed water can be reliably supplied by a local public agency or public water system; and (d) the cost of the reclaimed water is reasonable relative to the costs of conservation or other potentially available supplies of potable water, after taking into account all costs and benefits, including environmental costs and benefits.

(3) In determining the cost-effectiveness of alternative water sources, full consideration should be given to the benefits of storage which can reduce the damage to stream banks and property, increase the utilization of land, provide water for municipal, industrial, agricultural, and other beneficial uses, provide for the generation of electric power from renewable resources, and improve stream flow regimes for fishery and other instream uses.

(4) Entities receiving state financial assistance for construction of water source expansion or acquisition of new sources shall develop, and implement if cost-effective, a water use efficiency and conservation element of a water supply plan pursuant to RCW 43.20.230(1).

(5) State programs to improve water use efficiency should focus on those areas of the state in which water is overappropriated; areas that experience diminished streamflows or aquifer levels; regional areas that the governor has identified as high priority for investments in improved water quality and quantity, including the Spokane river, the Columbia river basin, and the Puget Sound; areas most likely to be affected by global warming; and areas where projected water needs, including those for instream flows, exceed available supplies.

(6) Existing and future generations of citizens of the state of Washington should be made aware of the importance of the state's water resources and the need for wise and efficient use and development of this vital resource. In order to increase this awareness, state agencies should integrate public (~~education~~) information programs on increasing water use efficiency into existing public information efforts. This effort shall be coordinated with other levels of government, including local governments and Indian tribes.

NEW SECTION. Sec. 10. A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of ecology shall establish a subtask force from the existing rule advisory committee, and reclaimed water users, by July 31, 2007, composed of no more than ten members including a representative from the department of ecology, who shall serve as chair, a representative from the department of health, and representatives from city, county, and water-sewer district utilities, and the environmental and business communities. By January 1, 2008, the subtask force shall submit to the appropriate legislative committees a recommendation for a long-term dedicated funding program to construct reclaimed water facilities. To minimize the administrative burden, the subtask force shall work toward a coordinated effort with the current clean water state revolving fund and centennial clean water fund integrated program under which reclaimed water projects with a water quality benefit are currently eligible and shall review the "2006 Inventory of State Infrastructure Programs" produced by the joint legislative audit and review committee. The subtask force shall also review current existing conservation and water reuse plans or programs for cities, counties, and districts and provide a report to the appropriate legislative committees regarding the number, general nature, and extent that conservation and reclaimed water use is identified or incorporated into such plans. The subtask force also shall consider, and recommend, provisions on: (a) The inclusion of reclaimed water use criteria or requirements as an element of water use efficiency requirements required under RCW 70.119A.180 and for water system, public water system, and/or regional water plans as required under chapters 43.20 and 70.119 RCW; and (b) the current and potential use of water conservation plans or ordinances, water conservation measures in regional watershed plans, and water conservation programs adopted by cities, towns, or counties addressing the use of reclaimed water where potable water is not required by the department of health.

(2) The recommendation shall provide a comprehensive funding, loan, and grant program that includes the following:

(a) Eligibility requirements: Eligible components should include the additional water reclamation components to treat wastewater effluent to reclaimed water standards, distribution pump stations, storage, trunk lines, and distribution lines, and

multiple-purpose projects in proportion to the costs allocated to reclaimed water;

(b) Competitive process for funding: The funding should be competitive and establish a maximum percentage or maximum funding amount available to any applicant;

(c) Priorities for funding that target reclaimed water projects ready to proceed, local support for the project, projects in areas that have adopted mandatory use ordinances or letters of intent to execute user contracts, projects providing broader public benefits to environmental water quality or water resource needs such as Puget Sound restoration, Columbia river water management strategies, water quality improvements, wetlands habitat, and instream flows, projects with benefits that clearly extend to citizens other than the utility ratepayers; and

(d) A proposed grant program for projects in identified high priority areas.

NEW SECTION. Sec. 11. A new section is added to chapter 90.46 RCW to read as follows:

(1) The legislature finds that the state should take a lead in increasing the visibility of the use of reclaimed water.

(2) The department of general administration shall develop a proposal to provide a comprehensive campus-wide plan for the use of nonpotable water in lieu of the use of potable water for irrigation and related outdoor uses, to serve as a demonstration project for the use of reclaimed water. The department of general administration shall work with the city of Olympia to provide a report to the legislature by December 1, 2007, of the needed infrastructure, cost, and potential funding sources for the project.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Buri; Cody; Conway; Darneille; Ericks; Fromhold; Grant; Haigh; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist; P. Sullivan and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Chandler; Dunn and Haler.

Passed to Committee on Rules for second reading.

March 31, 2007

SB 6119 Prime Sponsor, Senator Eide: Changing the distribution to and allocation of the fire service training account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.944 and 2005 c 518 s 929 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940; ~~((and))~~

(c) Twenty percent of all moneys received by the state on fire insurance premiums; ~~and~~

(d) General fund--state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated only for fire service training. ~~((During the 2005-2007 fiscal biennium, the legislature may appropriate funds from this account for school fire prevention activities within the Washington state patrol.))~~ The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis.

(3) Any general fund--state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Sommers, Chairman; Dunshee, Vice Chairman; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson; Buri; Chandler; Cody; Conway; Darneille; Dunn; Ericks; Fromhold; Grant; Haigh; Haler; Hinkle; Hunt; Hunter; Kagi; Kenney; Kessler; Kretz; Linville; McDermott; McDonald; McIntire; Morrell; Pettigrew; Priest; Schual-Berke; Seaquist and P. Sullivan.

Passed to Committee on Rules for second reading.

April 2, 2007

ESSB 6120 Prime Sponsor, Senate Committee on Transportation: Addressing rail and freight infrastructure. 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 47.06A RCW to read as follows:

The freight mobility strategic investment board and the department of transportation shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, and each September 1st thereafter, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by this chapter for the board and as required by section 2 of this act for the department of transportation.

NEW SECTION. Sec. 2. A new section is added to chapter 47.76 RCW to read as follows:

(1) The department shall develop and implement the benefit/impact evaluation methodology recommended in the statewide rail capacity and needs study finalized in December 2006.

(2) The department shall convene a work group to collaborate on the development of the benefit/impact analysis method to be used in the evaluation. The work group must include, at a minimum, the freight mobility strategic investment board, the department of agriculture, and representatives from the various users and modes of the state's rail system.

(3) In addition to existing criteria established by the department for evaluating rail projects, the department shall use the benefit/impact analysis in subsection (1) of this section when submitting requests for state funding for rail projects. The department shall develop a standardized format for submitting requests for state funding for rail projects that includes an explanation of the analysis undertaken and the conclusions derived from the analysis.

(4) The Stampede Pass corridor rail project shall be evaluated using the benefit/impact analysis method developed under this section, as soon as the analysis method is completed, and the results reported to the office of financial management and to the transportation committees of the legislature.

(5) The department and the freight mobility strategic investment board shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, and each September 1st thereafter, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by this section for the department and as required by chapter 47.06A RCW for the board.

Sec. 3. RCW 81.104.015 and 1999 c 202 s 9 are each amended to read as follows:

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

(1) "High-capacity transportation system" means a system of public transportation services within an urbanized region operating principally on exclusive rights of way, and the supporting services and facilities necessary to implement such a system, including interim express services and high occupancy vehicle lanes, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways. "High-capacity transportation system" also includes magnetic levitation and personal rapid transit systems.

(2) "Rail fixed guideway system" means a light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or other fixed rail guideway component of a high-capacity transportation system that is not regulated by the Federal Railroad Administration, or its

successor. "Rail fixed guideway system" does not mean elevators, moving sidewalks or stairs, and vehicles suspended from aerial cables, unless they are an integral component of a station served by a rail fixed guideway system.

(3) "Regional transit system" means a high-capacity transportation system under the jurisdiction of one or more transit agencies except where a regional transit authority created under chapter 81.112 RCW exists, in which case "regional transit system" means the high-capacity transportation system under the jurisdiction of a regional transit authority.

(4) "Transit agency" means city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas.

NEW SECTION. Sec. 4. A new section is added to chapter 81.104 RCW to read as follows:

Counties are authorized to impose with voter approval, by a simple majority of those voting, dedicated funding sources for magnetic levitation and personal rapid transit systems as set forth in RCW 81.104.150, 81.104.160, and 81.104.170. The maximum tax rate authorized in RCW 81.104.150, 81.104.160, and 81.104.170 is the maximum allowable rate that may be imposed by all entities in a county for magnetic levitation and personal rapid transit systems.

NEW SECTION. Sec. 5. A new section is added to chapter 81.104 RCW to read as follows:

(1) Counties implementing magnetic levitation and personal rapid transit systems are exempt from the population requirements in RCW 81.104.030.

(2) Counties implementing magnetic levitation and personal rapid transit systems are authorized to utilize public-private partnerships.

(3) The department of transportation shall develop, implement, and administer a grant program for state and federal funding identified for magnetic levitation systems and personal rapid transit systems. The speaker of the house of representatives shall appoint four representatives, two from each legislative caucus, the president of the senate shall appoint four senators, two from each legislative caucus, and the governor shall appoint a business person from private industry and a person with academic credentials in magnetic levitation and personal rapid transit systems technology to work with the department of transportation to develop the criteria for the grant program. To obtain grants through the grant program, entities shall submit magnetic levitation and personal rapid transit systems technology design proposals to the department of transportation and compete for grant funding."

Correct the title.

Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Dickerson; Eddy; Erickson; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Springer.

Passed to Committee on Rules for second reading.

April 2, 2007

SSCR 8405 Prime Sponsor, Senate Committee On Transportation: Providing for the study of legislative and financial issues regarding the Columbia River Crossing Project. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chairman; Flannigan, Vice Chairman; Jarrett, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Dickerson; Eddy; Ericksen; Hankins; Hudgins; Lovick; Rodne; Rolfes; Sells; Simpson; Springer; B. Sullivan; Takko; Upthegrove; Wallace and Wood.

Passed to Committee on Rules for second reading.

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

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

There being no objection, the House adjourned until 10:00 a.m., April 3, 2007, the 86th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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